

EVIDENTIARY HEARING
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)	
)	
Application for Certification)	Docket No.
of SMUD's Cosumnes Power Plant)	01-AFC-19
Project)	
_____)	

HENDRICKSON HALL
12746 IVIE ROAD
HERALD, CALIFORNIA 95638

FRIDAY, MARCH 14, 2003

9:40 a.m.

Reported by:
Valorie Phillips
Contract No. 170-01-001

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMITTEE MEMBERS PRESENT

Robert Pernell, Presiding Member

HEARING OFFICER, ADVISORS PRESENT

Garret Shean, Hearing Officer

E.V. (Al) Garcia, Advisor

STAFF AND CONSULTANTS PRESENT

Caryn Holmes, Staff Counsel

Kristy Chew, Project Manager

William Walters, Senior Associate
Aspen Environmental Group

Michael Clayton,

Jeri Scott

Dale Edwards

PUBLIC ADVISER

Roberta Mendonca

APPLICANT

Jane E. Luckhardt, Attorney
Downey, Brand, Seymour & Rohwer

Steven M. Cohn, Assistant General Counsel

Maria de Lourdes Jimenez-Price, Attorney

Colin Taylor, Project Director

Kevin Hudson, Licensing Project Manager

Bob Nelson, Superintendent, Project Development

Scott Flake, Superintendent, Project Development
Engineering

Mark Bastasch, Project Engineer

Thomas Priestley, Senior Environmental Planner

APPLICANT - CONTINUED

Wendy E. Haydon, Environmental Planner
CH2MHILL

Don Logan, Transportation Engineer
CH2MHILL

INTERVENORS

Kathy Peasha

Dustin Peasha

ALSO PRESENT

Matt Kelly
Sacramento-Sierra's Building and Construction
Trades Council

Karen French, Local Homeowner

Virginia Colla, Local Resident

Len Reid Reynoso, Resident

Carol Backert, Resident

Tim Reinart, Resident

Ruth Anne Rose, Resident

Tom May, Resident

Ernest De Angelo, Resident

Marlene De Angelo, Resident

Diane Moore, Resident/Biologist

Jim Buntin, Buntin & Associates

Jacques Peasha, Resident

Stephan Carillo, Police Sergeant

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P R O C E E D I N G S

9:38 a.m.

PRESIDING MEMBER PERNELL: Good morning; this is a continuation of the hearing of the SMUD Cosumnes Project. My name is Commissioner Pernell. I'm the Presiding Member of the Committee. The Associate Member is Commissioner Rosenfeld, who is unable to be here today.

To my left is my Advisor, Al Garcia; to my right is our Hearing Officer, Mr. Shean. At this time I'd like the -- can everybody hear me? At this time I'd like the parties to introduce themselves and their team, starting with the applicant, please.

MR. COHN: Commissioner Pernell, Mr. Shean, Mr. Garcia, my name is Steve Cohn, appearing on behalf of Sacramento Municipal Utility District. My co-counsel, Jane Luckhardt, is seated to my right. On my left, Project Director Colin Taylor and Project Manager Kevin Hudson. Also Lourdes Jimenez-Price, on behalf of the District.

PRESIDING MEMBER PERNELL: Good morning, welcome. Staff, please.

MS. HOLMES: Thank you, good morning.

1 My name is Caryn Holmes; I'm the Attorney for the
2 Energy Commission Staff assigned to this project.
3 And sitting to my right is Kristy Chew, who's the
4 staff's Project Manager. And also at the table
5 and various places in the audience we have several
6 members of staff's technical team.

7 PRESIDING MEMBER PERNELL: Okay, thank
8 you. Are there any public agencies, any public
9 agencies? Anyone representing other organizations
10 or any community-based organizations?

11 MR. KELLY: My name is Matt Kelly and I
12 represent the Sacramento Building and Construction
13 Trades Council.

14 PRESIDING MEMBER PERNELL: Thank you.
15 Welcome. At this time we have a Public -- oh, I'm
16 sorry. Intervenors?

17 MS. PEASHA: Good morning,
18 Commissioners. My name is Kathy Peasha,
19 Intervenor. And I will have -- I am with myself.

20 HEARING OFFICER SHEAN: Well, do you
21 want to introduce your assistant?

22 MS. PEASHA: And my -- this will be one
23 of my witnesses, Dustin Peasha. And he'll be
24 witnessing on some of the noise quality.

25 PRESIDING MEMBER PERNELL: Okay, great.

1 All right, the Public Adviser has a brief
2 statement.

3 MS. MENDONCA: Good morning. I'd just
4 remind members of the audience that wish to
5 participate this morning, we'd ask you to fill out
6 a blue card. And when they're filled out, I'll
7 pick them up and give them to the speaker. And
8 for those of you who have not attended an
9 evidentiary hearing before there's a brief one-
10 page summary of what we're doing today and
11 (inaudible) creating evidence for the decision-
12 making.

13 Thank you.

14 PRESIDING MEMBER PERNELL: Thank you.
15 At this time I'll turn the hearing over to our
16 Hearing Officer, Mr. Shean.

17 HEARING OFFICER SHEAN: Good morning. I
18 just want to acknowledge and thank Bonnie Hayes
19 for provisioning us with food yesterday and today.

20 PRESIDING MEMBER PERNELL: Yes.

21 (Applause.)

22 HEARING OFFICER SHEAN: As well as the
23 sound system. She's taken great care of us;
24 fattening a few of us up. So, thank you very
25 much, Bonnie.

1 We're going to begin this morning with
2 visual resources. And we have SMUD here with its
3 visual witnesses, and they will be available for
4 cross-examination at the request of Ms. Peasha.

5 MS. HOLMES: Mr. Shean, did you want to
6 begin with compliance, which we carried over from
7 yesterday? We have our compliance witness
8 available, as well.

9 HEARING OFFICER SHEAN: All right.
10 Yeah, we'll back that up and do that. Why don't
11 you -- well, let's do what we did yesterday with
12 respect to swearing in witnesses. So, if there's
13 any person who is here who intends to be
14 testifying under oath, we'll ask you to stand and
15 now be sworn by our court reporter.

16 MR. COHN: Mr. Shean, those who have
17 already been sworn yesterday are still --

18 HEARING OFFICER SHEAN: Yeah, obviously
19 need not do that.

20 MR. COHN: -- still sworn. All right.
21 Whereupon,

22 ALL WITNESSES PRESENT
23 were called as witnesses herein, and after first
24 having been duly sworn, were examined and
25 testified as follows:

1 MS. HOLMES: Thank you. Staff's witness
2 on general conditions, including compliance
3 monitoring enclosure plan is Jeri Scott, who is
4 seated at the table. Jeri could you please spell
5 your name for the court reporter?

6 DIRECT EXAMINATION

7 MS. SCOTT: J-E-R-I S-C-O-T-T.

8 MS. HOLMES: And Ms. Scott, did you
9 prepare the portion of the FSA that I just
10 identified, the general conditions, including
11 compliance monitoring enclosure plan with the
12 exception of Com-8?

13 MS. SCOTT: Yes I did.

14 MS. HOLMES: And was a statement of your
15 qualifications included in the FSA?

16 MS. SCOTT: Yes it is.

17 MS. HOLMES: And do you have any
18 corrections or changes to make to your testimony
19 at this time?

20 MS. SCOTT: Yes I have, just one minor
21 change.

22 MS. HOLMES: Could you identify the
23 page?

24 MS. SCOTT: The page is 7.1-16,
25 Verification Changes, that's the title. And I

1 would like to make one change. Pursuant to
2 section 1770 instead of section 1769 (d),. So
3 once again, the change, it should be 1770 instead
4 of 1769 as the section relating to verification
5 changes.

6 MS. HOLMES: Thank you. Does that
7 conclude your corrections?

8 MS. SCOTT: Yes it does.

9 MS. HOLMES: And with those corrections,
10 are the facts contained in your testimony true and
11 correct?

12 MS. SCOTT: To the best of my knowledge,
13 yes.

14 MS. HOLMES: And are the opinions
15 contained in this testimony your best professional
16 judgement?

17 MS. SCOTT: Yes they are.

18 MS. HOLMES: Ms. Scott, would you please
19 provide a very brief summary of how the compliance
20 process works?

21 MS. SCOTT: Yes. The compliance process
22 is similar to the siting process. I am the CPM
23 and I head up a team of approximately 15 Energy
24 Commission staff persons. In fact, these are the
25 same people who worked on the different technical

1 areas during the siting process.

2 The compliance teams purpose is to
3 oversee construction and operation of this
4 project. And in order to insure compliance with
5 the conditions of certification in the Commission
6 decision, the project owner is required to submit
7 verification to the compliance team showing
8 compliance with the conditions of certification.

9 Now, this verifications comes in the
10 forms of documents. And once the document is
11 received it's entered into our tracking system and
12 is distributed to the appropriate staff person who
13 reviews it and determines whether or not the
14 document satisfied the conditions of
15 certification.

16 Now during the construction phase of the
17 project, there will be additional people working.
18 There will be specialists on the site that will be
19 reporting to the CPM team and also recording the
20 daily activities and a monthly compliance report.
21 During the 24 months of construction, the project
22 owner is required to submit to the CPM a monthly
23 compliance report.

24 This monthly compliance report will
25 detail what has occurred on the site during the

1 previous month. Describer all submittals that
2 have been sent to the Energy Commission and
3 explain what construction will occur in the
4 following two months.

5 Now during the construction of the
6 project, the CPM will make regular site visits as
7 will the members of the team. The public may
8 inquire about any -- any document that the project
9 owner submits, unless it is designated
10 confidential. And we keep a tracking system of
11 every document that is submitted.

12 And members of the public can contact
13 the CPM to obtain copies of any submittal. I
14 think basically that's it. During the
15 construction process and during the operation
16 process if there, if the project owner wants to
17 make any changes to the project description, any
18 changes to the conditions of certification, they
19 must petition the Energy Commission staff.

20 We will review it, conduct an
21 independent analysis, much the same as the ones
22 that were completed during the siting process.
23 Make a recommendation and present it to the entire
24 Energy Commission for their approval.

25 Now the members of the public will be

1 informed of any changes to the project. What I
2 plan to do is to maintain the list. All the lists
3 that were compiled during the siting process. So
4 I will have a list of the property owners,
5 intervenors and agencies. And they will be
6 notified of any changes to this project. Are
7 there any questions?

8 MS. HOLMES: The witness is available
9 for cross-examination.

10 CROSS-EXAMINATION

11 MS. PEASHA: I'm Kathy Peasha have a few
12 questions. You stated that during the
13 construction period there will be -- a quote made
14 by our -- correct me if I'm wrong -- two months
15 prior, the method of the construction that's going
16 to be done, is that correct?

17 MS. SCOTT: Uh, no, no that is not what
18 I intended to say. So may I repeat what I said?

19 MS. PEASHA: Certainly.

20 MS. SCOTT: Okay. Okay --

21 MS. PEASHA: Do you have a copy -- is
22 this copy is this an --

23 MS. SCOTT: No.

24 MS. PEASHA: Okay.

25 MS. SCOTT: The project owner is

1 required to submit a monthly compliance report to
2 the CPM. The monthly compliance report consists
3 of all the construction activities that have
4 occurred on the project for the previous month.

5 Like if they start construction in June
6 and in July, by the 15th of July, they will submit
7 a document to me telling me all the construction
8 activities that have occurred during June. And
9 also in that document they will tell me the
10 activities they plan to participate in or that
11 would occur on the project for August and
12 September. And that's what I was trying to
13 relate.

14 MS. PEASHA: That's what I believed that
15 you said.

16 MS. SCOTT: Yes, yes.

17 MS. PEASHA: The acronym CPM, also is an
18 acronym for critical path method, which
19 construction workers use to do just what you say.

20 MS. SCOTT: Uh, uh-huh.

21 MS. PEASHA: And what they do is to keep
22 their equipment and their managers, sub-
23 contractors in line, they also plan out in
24 previous weeks and months ahead to stay on
25 schedule to keep that -- to keep on schedule

1 primarily and to keep everybody so that they're
2 doing something. So I wanted to clarify, so there
3 will be a critical path method distributed by the
4 construction manager, is it?

5 MS. SCOTT: It, it, the construction
6 manager may put that document together. But the
7 project owner will submit it to the CPM. I'd like
8 to state that the Energy Commission staff holds
9 the project owner responsible for any, for
10 compliance with any conditions of certification.
11 So they may have other sub-contractors or
12 consultants working for them, but all of the
13 documents will come to me from SMUD.

14 MS. PEASHA: Which would be your general
15 contractor?

16 MS. SCOTT: Yeah, SMUD is the project
17 owner.

18 MS. PEASHA: Right.

19 MS. SCOTT: Yeah.

20 MS. PEASHA: So they are general on it?

21 MS. SCOTT: Yes. Okay, and CPM stands
22 for Compliance Project Manager, that's the way I'm
23 using it.

24 MS. PEASHA: I understand that too, but
25 it also is an acronym for critical path method for

1 construction sites. I have no further questions.

2 HEARING OFFICER SHEAN: Okay, anything
3 from the Applicant?

4 MR. COHN: No, we have nothing.

5 HEARING OFFICER SHEAN: Thank you Ms.
6 Scott.

7 PRESIDING MEMBER PERNELL: Thank you Ms.
8 Scott.

9 HEARING OFFICER SHEAN: All right, now
10 we will move to visual resources. And the SMUD
11 witnesses.

12 MS. LUCKHARDT: Okay, for visual
13 resources, the Applicant is going to have quite a
14 group here available. We have Kevin Hudson and
15 Scott Flake, who were sworn previously and
16 testified yesterday. And we are also calling Tom
17 Priestley and Wendy Haydon from the visual
18 resource consultants. And I'm going to go through
19 their testimony and get that entered into the
20 record. And then they will be available for
21 questions. So Mr. Priestly and Ms. Haydon, do you
22 have a copy of Applicants testimony on visual
23 resources in front of you?

24 DIRECT EXAMINATION

25 MR. PRIESTLEY: Yes.

1 MS. HAYDON: Yes.

2 MS. LUCKHARDT: And you guys, I think
3 you have a recorders mic. Kevin, if you could
4 move the --

5 UNIDENTIFIED SPEAKER: We might want to
6 move the amplifier mic over to the end.

7 MS. LUCKHARDT: -- that mic down. Oh,
8 it's taped down.

9 UNIDENTIFIED SPEAKER: It's taped down?

10 MS. LUCKHARDT: Then should I talk loud
11 and you take mine? And was this testimony
12 prepared by you or at your direction?

13 MS. HAYDON: Yes.

14 MS. LUCKHARDT: And do you have any
15 corrections to your testimony to make today?

16 MS. HAYDON: No.

17 MS. LUCKHARDT: And is this testimony
18 true and correct to the best of your knowledge?

19 MS. HAYDON: Yes it is.

20 MS. LUCKHARDT: Thank you. We have no
21 specific questions for our witnesses this morning.
22 We have come to agreement with Energy Commission
23 staff on the conditions that they have included in
24 their filing of March 12, 2003 on visual
25 resources. And so our witnesses are available for

1 questions. And I don't believe we need to
2 summarize unless the Committee would like us to
3 summarize.

4 HEARING OFFICER SHEAN: No, but at least
5 let's go through the ceremony of seeing if there
6 is objection to qualifying Ms. Haydon and Mr.
7 Priestly as experts? Hearing none, they are so
8 qualified. And is there objection to the
9 admission of the visual resources testimony of the
10 Applicant? Hearing none it is admitted.

11 All right, in the Pre-Hearing
12 Conference, Ms. Peasha had requested that the
13 Applicant witnesses be available and so with that,
14 Ms. Peasha, if you have questions?

15 CROSS-EXAMINATION

16 MS. PEASHA: Wendy Haydon?

17 MS. HAYDON: Yes.

18 MS. PEASHA: Could you just reiterate
19 the, the rating for the overall visual impact, or
20 sensitivity from KOP2 for me?

21 MS. HAYDON: As I recall, I think it was
22 considered low to moderate. We can look it up for
23 you.

24 REPORTER: Could Ms. Haydon speak into
25 the shorter mic please?

1 MS. HAYDON: I'm sorry, what?

2 HEARING OFFICER SHEAN: You have to
3 speak into the reporters microphone.

4 PRESIDING MEMBER PERNELL: We just ask
5 you to speak up as loud as possible. That way
6 we'll get it on the record.

7 MS. HAYDON: In the AFC, can you hear me
8 now?

9 PRESIDING MEMBER PERNELL: Yes.

10 MS. HAYDON: Okay. In the AFC we stated
11 on page 811-6 that the view from KOP2 was
12 considered to have a moderately low to moderate
13 visual quality.

14 MS. PEASHA: And that is on the plumes,
15 but just on the towers themselves?

16 MS. HAYDON: This is just talking about
17 the visual quality of -- during the day so there
18 were no plumes when I was out there.

19 MS. PEASHA: Okay. Does any of the
20 witnesses here have testimony regarding the plumes
21 and the visual impact at KOP?

22 MS. LUCKHARDT: I believe that the plume
23 impact analysis was conducted by Ms. Haydon and
24 Mr. Priestly, so they would be available to answer
25 questions on the impacts of that.

1 MR. PRIESTLEY: And I think, uh, the
2 bottom line statement is that our analysis is
3 consistent with that of CEC Staff in the final
4 Staff Assessment, that the plume would not have a
5 significant impact on views, either from KOP2 or
6 elsewhere in the project area.

7 MS. PEASHA: In the AFC Supplement B,
8 were there alternatives in the visual impact if
9 there was a different system used such as the dry
10 cooling system made by, I believe, made by one of
11 your witnesses?

12 MS. LUCKHARDT: Are you asking us as to
13 whether there was an assessment done?

14 MS. PEASHA: Yes.

15 MS. LUCKHARDT: Of dry cooling, was that
16 the ?

17 MS. PEASHA: On the dry cooling system,
18 if that would be a less impact on the visible
19 sensitivities from KOP2?

20 MS. HAYDON: Kathy, there is no
21 reference to dry cooling in Supplement B.

22 MS. PEASHA: Okay, I might have the
23 wrong one here then. Is it, okay, perhaps --

24 PRESIDING MEMBER PERNELL: Perhaps you
25 can just answer the general question. I think if

1 there was a -- have you done any analysis on dry
2 cooling, and if so, what effect would it have on
3 the visual plume, I think is the question?

4 MS. PEASHA: That's exactly what I'm
5 getting at.

6 MS. HAYDON: The visual discussion in
7 it's set 1E, discuss the air cooled condenser.
8 And it talked about the appearance of the air
9 cooled condenser, it did not discuss plumes.

10 MS. PEASHA: Were there any discussions
11 in your testimonies for a wet/dry cooling tower?

12 MS. HAYDON: The hybrid system was also
13 evaluated in set 1E. And it was determined that
14 the visual impact would have somewhat of a less
15 impact than the air cooled system because it would
16 be shorter.

17 MS. PEASHA: Do you have an estimated or
18 guesstimated difference in the impact?

19 HEARING OFFICER SHEAN: Let's make sure
20 we're talking about -- what it is we're talking
21 about.

22 MS. PEASHA: The difference between the
23 cooling system that they are going with and the
24 wet/dry.

25 HEARING OFFICER SHEAN: Okay, sure.

1 There is the physical cooling system itself, okay.
2 Which would be the visual impact of the hardware.
3 And then you have been discussing at the same
4 time, the visual impact of the plume. Now, with a
5 dry cooling system, there is no plume from the
6 cooling system itself.

7 There would be somewhat of a plume from
8 the exhaust stack for other reasons. And so I
9 just want to know whether or not you're talking
10 about the structures, the cooling structures
11 themselves or the plume?

12 MS. PEASHA: To my understanding, there
13 would be some plume from the wet/dry cooling
14 system.

15 HEARING OFFICER SHEAN: Okay.

16 MS. PEASHA: And that's why I asked
17 that, if that is not true?

18 HEARING OFFICER SHEAN: Well, then let's
19 have them answer that question, because I just
20 want to make sure we're talking about the plume
21 effect, as opposed to the structure itself.

22 MS. HAYDON: Okay, there is no plume
23 from the air cooled condenser, but there is, would
24 be a plume from the hybrid, which I think is what
25 you're asking.

1 MS. PEASHA: So there are two different
2 opinions of overall visual sensitivity depending
3 on which, what kind of cooling system you used?

4 MS. HAYDON: The visual sensitivity is
5 the same. We evaluate the physical structures.

6 MS. PEASHA: Okay, just the visual
7 structures, okay.

8 MS. HAYDON: Okay. And then the plume
9 is evaluated separately.

10 MS. PEASHA: I object to the fact that a
11 visual impacts and sensitivities from all areas
12 are bifurcated in two different reports. When you
13 talk about visual sensitivity and visual impacts,
14 you are talking about one thing, visual. And for
15 them so do a report on visual impacts of the
16 towers and visual impacts of the plumes when
17 overall it's a visual impact, I believe that one
18 report should have been reported on.

19 MS. LUCKHARDT: I don't believe, Mr.
20 Shean that that's what has occurred, at least on,
21 with the Applicants information. We prepared an
22 application for certification. And then as you
23 know, and is typical, you have amendments and then
24 you have responses to data requests from staff.
25 And what they are going through is their analysis.

1
2 And I believe that our visual experts,
3 and we can ask them this directly analyzed the
4 visual impact of the whole project. And would
5 have analyzed the impacts of each cooling system
6 entirely.

7 I don't think you could analyze the
8 plume separate from the physical structure of say,
9 an air cooling system. You have to look at each
10 system separately to analyze the visual impact of
11 the whole thing. And I believe that's what our
12 witnesses did.

13 HEARING OFFICER SHEAN: Okay,
14 traditionally Energy Commission does the
15 following, they look at the setting without the
16 power plant, anticipating a power plant will go in
17 there and they look at the, essentially the
18 qualities of that setting into which the power
19 plant will be placed. And make a judgement with
20 respect to the visual character that is already
21 there, both sort of in the foreground as well as
22 in the background.

23 Then, there is a separate analysis of,
24 when you add all the equipment in there, what is
25 the effect going to be from locations that can see

1 it? Recently, at least the Energy Commission has
2 begun evaluating separately, the additional impact
3 of the visible plume from both the cooling towers
4 and if it's appropriate also the exhaust stacks
5 from the facility.

6 So that is at least the way our review
7 goes, so that we would want to know, because the
8 plume from the cooling towers is not always
9 visible, or let me say, at times it is more
10 visible than at other times and those are
11 meteorological conditions to capture what is the
12 typical case and then what is the worst case.

13 So if you can operate within that
14 structure, we could get information that probably
15 is going to enlighten the Committee and the
16 Commission.

17 MS. PEASHA: Okay, the only other
18 question I have is for the Applicant is, did the
19 visual impact of Rancho Seco's towers have
20 anything to do with the impact that they made
21 regarding the new towers that are being built out
22 there for the new plant?

23 MS. HAYDON: Rancho Seco is existing, so
24 we considered that the existing environment. But
25 in the cumulative impacts discussion, the presence

1 of Rancho Seco including the parabolic towers and
2 other projects planned in the area are all
3 considered in the cumulative impacts analysis. So
4 yes, Rancho Seco was considered.

5 MS. PEASHA: Are you aware that the
6 towers at Ranch Seco plant are no longer needed or
7 have any significance being there anymore
8 according to the NRC?

9 MS. HOLMES: Yes, I was aware that it's
10 been decommissioned.

11 MS. PEASHA: So in other words, the
12 visual towers of Rancho Seco could be imploded and
13 they would no longer be compared with the impact
14 of the visuals of the new towers.

15 MS. HOLMES: Well, I can't speak to
16 whether SMUD would implode --

17 MR. HUDSON: I can speak to the issue of
18 the cooling towers at Rancho Seco. They are
19 425-feet tall and 325-feet wide at the base. The
20 situation with the towers is that there are no
21 current funds to demolish the towers anytime in
22 the near future or the future.

23 MS. PEASHA: What is the -- what would
24 your estimated cost of removing the towers?

25 MR. HUDSON: I don't have a cost? I'd

1 be guessing and I can't guess on something like
2 that.

3 MS. PEASHA: Is SMUD staff still
4 required to be out there because of those towers?

5 MS. LUCKHARDT: You can answer it if you
6 know the answer.

7 MR. HUDSON: SMUD Staff is not out there
8 because of the towers. They're still currently
9 decommissioning the nuclear power plant, yes.

10 MS. PEASHA: Is SMUD now in control of
11 the area of Rancho Seco Power Plant or is the NRC
12 still in charge of what goes on out there?

13 MS. LUCKHARDT: You can answer if you
14 know the answer. I don't know what the relevance
15 is as to whether the NRC still has regulatory
16 authority over that facility or not. I believe
17 they do because the spent fuel is still there. So
18 that's my understanding, but I don't know if these
19 witnesses are aware of the Rancho Seco status.

20 HEARING OFFICER SHEAN: Well I thought
21 the words were just about out of his mouth.

22 MS. LUCKHARDT: If you have the answer,
23 please.

24 MR. HUDSON: SMUD is still in control of
25 the industrial area out that and is required to

1 report to the Nuclear Regulatory Commission on
2 activities that are still ongoing out there, yes.

3 MS. PEASHA: Has the Nuclear Regulatory
4 Commission said that the towers are no longer
5 justified to be out there. That they could come
6 down to your knowledge?

7 MR. HUDSON: I wouldn't know about
8 that.

9 HEARING OFFICER SHEAN: Ms. Peasha, You
10 had asked a hypothetical question that didn't
11 quite get answered as a hypothetical. You had
12 asked if the towers were not there, would whatever
13 visual degradation you apply in your analysis
14 because of the presence of the towers, would that
15 visual degradation be reduced, either measurably
16 or significantly?

17 MS. HAYDON: Well, speaking right off
18 the top of my head and from my memory of being out
19 there, I would say that if Rancho Seco wasn't
20 there, the impact of putting a power plant out
21 there would probably be, the visual impact, would
22 probably be greater than if Rancho Seco was there.
23 I can't really confirm that it would be a
24 significant impact. We'd, you know, we'd need to
25 go out there and really think about and evaluate

1 the terrain and the landscape.

2 HEARING OFFICER SHEAN: Okay, I'm going
3 to just move this thing because it makes it so I
4 can't hear.

5 MS. PEASHA: Wendy, have you seen
6 pictures of the overall impact and simulated views
7 with Rancho Seco in the background?

8 MS. HAYDON: Yes. I took the photos.
9 I'm the one that went out and took the photos for
10 the simulations.

11 MS. PEASHA: And did, and do you in your
12 opinion believe that the impact would be less
13 significant, I mean would be more significant to
14 the visual impact if the towers of Rancho Seco
15 were not present?

16 MS. LUCKHARDT: I believe she indicated
17 that she did not analyze that and I believe she
18 answered that question in response to Mr. Shean.

19 MS. PEASHA: I believe she also answered
20 that she took the pictures out there. So there is
21 no way without taking pictures of those that she
22 did not see those towers.

23 MS. LUCKHARDT: I guess I'm
24 misunderstanding your question. I thought you
25 were asking, roughly the same question Mr. Shean

1 had previously asked. So maybe if you restate it,
2 we'll understand it.

3 MS. PEASHA: I actually asked her -- she
4 said she'd have to go out there and look at them.
5 She just told me that she's the one that took the
6 photographs.

7 HEARING OFFICER SHEAN: All right, why
8 don't you just rephrase your -- or repeat your
9 question and let's see if we can.

10 MS. PEASHA: Wendy, have you
11 seen -- since you were the photographer out there
12 for those and for the simulated plant. Did you or
13 did you not, notice the Rancho Seco Power Plant
14 towers? And do they make any significant --
15 answer that first, that's fine.

16 MS. HAYDON: Yes I did go out there.
17 And yes I did take the photos and yes I did see
18 the Rancho Seco plant and they are shown in the
19 photos.

20 MS. PEASHA: In your opinion, if those
21 were not there, would the impact of the visual
22 towers for CPP be more or less significant for
23 sensitivity from the different KOP's.

24 MS. LUCKHARDT: That's been asked and
25 answered. That was in response to your question,

1 Mr. Shean.

2 HEARING OFFICER SHEAN: Well, actually
3 it wasn't. She asked with respect to the project
4 towers, as opposed to the project itself.

5 MS. HAYDON: Okay. But what we
6 evaluated is the existing, against the existing
7 condition, which Rancho Seco is out there. So now
8 you are asking me to pretend that Rancho Seco is
9 not there. And then tell you what I think the
10 impact might be?

11 MS. PEASHA: I'm just asking your
12 opinion if you think that the impact, the visual
13 impact --

14 MS. HAYDON: I just wanted to clarify
15 that that's what you were asking?

16 MS. PEASHA: Yes, thank you.

17 MS. HAYDON: I didn't evaluate that, but
18 you're asking my opinion. And I think I just a
19 few minutes ago said that if the -- if Rancho Seco
20 wasn't there, I think there would -- the landscape
21 would appear more undisturbed, so if the project
22 was going to out there, there would probably be
23 more visual contrast to the landscape.

24 MS. PEASHA: Did you take the, the, the
25 nighttime pictures also?

1 MS. HAYDON: Yes I did.

2 MS. PEASHA: I have no further
3 questions.

4 HEARING OFFICER SHEAN: Okay, I'd like
5 to get it clarified, since it was raised at the
6 Pre-Hearing Conference, what the night lighting
7 protocols for construction are going to be?

8 MR. FLAKE: I'll try to answer that
9 question. The construction contractor will set up
10 the lighting situation both in the plant
11 construction area and parking and the lay down
12 areas. Lighting is used on construction for both
13 worker safety, while they're operating during
14 nighttime and early morning conditions. And also
15 for security purposes.

16 We do not have a contractor selected for
17 this project yet. But based on my experience on
18 past projects, there would generally be some
19 lighting available during the nighttime through
20 the evening for security purposes in the lay down
21 area.

22 And this would be primarily for security
23 of the equipment that's in the lay down area.
24 Security of people working during the evening
25 hours. And for any, perhaps deliveries that come

1 during the evenings to get them safely off the
2 road and into the construction site so that they
3 can lay-up during the evening.

4 MS. PEASHA: I would like to rebuttal on
5 that if I may. During -- or in the report it says
6 that there would be construction during the
7 daytime and there would be no construction or
8 personnel other than maybe security for the CPP
9 Plant. You have no mention or do not have the
10 information that there are even was, or is going
11 to be a lit area on the lay down area. Is that
12 now changed?

13 MR. FLAKE: I believe the work hours
14 were stated for noisy work between 6 a.m. and 8
15 p.m. and that is, those hours are stated in the
16 conditions of certification.

17 MS. PEASHA: Would that require
18 the -- it does not state in there though, that
19 there are lights at the lay down area. At this
20 time, this report, when the FSA came out, there
21 was no conditions of lighting for the lay down
22 area, has that changed?

23 MR. FLAKE: Can we just take one moment
24 to look up some documentation?

25 HEARING OFFICER SHEAN: Yes.

1 (Off the record.)

2 MR. FLAKE: Visual VIS-4 in the Final
3 Staff Assessment is the guidance that we will be
4 using for our construction lighting. And we'll be
5 complying with this conditions of certification.

6 MS. PEASHA: Which is on what?

7 HEARING OFFICER SHEAN: What page is
8 that?

9 MR. FLAKE: 4.12-44.

10 MS. PEASHA: Paragraph?

11 MR. FLAKE: The entire condition, VIS-4,
12 Construction Lighting is the title.

13 HEARING OFFICER SHEAN: Ms. Peasha,
14 before you --

15 MS. PEASHA: Am I, am I --

16 HEARING OFFICER SHEAN: -- Ms. Peasha
17 before you proceed. I need some foundation
18 information for the answers that he's giving to
19 fit into a context with the original question that
20 I started on this. If I understood you correctly,
21 you do have an expectation of construction taking
22 place other than, well, let me just say, how many
23 shifts of construction do you anticipate in the
24 project?

25 MR. FLAKE: The actual number of shifts

1 have not been determined. We'll work with the
2 contractor for the exact work hours and if there
3 are second shift requirements.

4 HEARING OFFICER SHEAN: Okay. Are there
5 any hours of the day that you do not anticipate
6 construction taking place?

7 MR. FLAKE: That we do not?

8 HEARING OFFICER SHEAN: That you do not,
9 right, that would be excluded, or could it
10 potentially be all 24 hours in any given day?

11 MR. FLAKE: I do not expect 24 hour
12 shifts at this site. There could be a potential
13 for a second shift, but again, that relates to the
14 construction schedule, which has not been
15 determined with the contractor.

16 But typically even the regular workday,
17 we would anticipate to be 8 to 10 hours per day.
18 And during certain times of the year, it's dark
19 during the morning and the evening, so there would
20 be lighting, even if there was just a one shift
21 operation. And then through the night for
22 security purposes. Much , much less lighting
23 however, after the workday ends.

24 HEARING OFFICER SHEAN: And did I also
25 understand you to testify that there may be

1 evening deliveries of supplies and material for
2 construction.

3 MR. FLAKE: At times, long haul truck
4 material is being sourced for this project across
5 the nation and actually globally, trucks will
6 arrive during evening hours or after the normal
7 workday, it would be received by security at the
8 site and then parked on the site.

9 HEARING OFFICER SHEAN: And it's your
10 expectation that for both the construction site
11 and the lay down site, the Applicant would be
12 complying with provisions of VIS-4?

13 MR. FLAKE: That is correct.

14 MS. PEASHA: To my knowledge, they
15 stated they did not have any lights prepared for
16 the lay down area and they would not know until
17 contractors were out there. They also state in
18 their traffic and transportation that the workers
19 would be arriving and leaving so that they would
20 not get into the general commute traffic and so
21 this night construction that they are bringing up
22 right now is not -- is new to me and has not been
23 brought up.

24 HEARING OFFICER SHEAN: Okay. Well,
25 eventually when we get to the Staff, we'll see if

1 the Staff contemplated this when they prepared
2 VIS-4, or if it's new to them. Do you have any
3 additional questions of the Applicant?

4 MS. PEASHA: No, not at this time.

5 HEARING OFFICER SHEAN: All right, thank
6 you. I have a couple more. Does your testimony
7 include your assessment that the visual impact of
8 the project plume from the cooling towers will be
9 insignificant?

10 MS. HAYDON: It was less than
11 significant.

12 HEARING OFFICER SHEAN: Less than
13 significant. And do you know the linear length of
14 the cooling towers if both phases of the project
15 are constructed?

16 MR. FLAKE: Each cooling tower is
17 approximately 350-feet long. So if both phases,
18 for both phases they would each have one cooling
19 tower, so combined, about 700-feet long.

20 HEARING OFFICER SHEAN: All right. And
21 what do you understand is the, let's say, modeled
22 worst case height and length of the plume during
23 the meteorological conditions that are most
24 conducive to the visual plume?

25 MS. HAYDON: Okay, you're asking for the

1 dimensions of the plumes?

2 HEARING OFFICER SHEAN: Approximately.

3 MS. HAYDON: Okay, the tenth percentile
4 plume from a cooling tower for both phases would
5 be about 272-feet long, 384-feet tall and 154-feet
6 wide.

7 HEARING OFFICER SHEAN: All right. Can
8 you just explain to the committee how in your
9 professional opinion for that plume that occurs
10 ten percent of the time, which is relatively
11 infrequently, you assess or conclude that it's
12 visual impact is less than significant? Give us
13 your, essentially qualitative judgement of why
14 that is less than significant?

15 MS. HAYDON: Just a moment.

16 MR. PRIESTLEY: So a number of factors
17 go into the assessment. One is the understanding
18 that this is an occurrence of relatively short
19 duration. It takes place within a relatively
20 limited hours during the year. So it's an
21 intermittent thing.

22 It's not like this plume is there, a
23 plume of that size is there all the time. The
24 hours within which it occurs are relatively
25 limited and then you need to evaluate to what

1 extent is it blocking highly valued views, to what
2 extent does it effect the overall character and
3 quality of the environment.

4 And given the conditions in this area,
5 both our assessment and that of CEC Staff are in
6 agreement, that although the presence of the
7 plume, yes, certainly you would be able to see the
8 plume, and certainly it would have some adverse
9 effect on the setting, but those effects would not
10 be so substantial in that particular context to
11 constitute a significant effect.

12 HEARING OFFICER SHEAN: Did the staff
13 have any questions of the Applicant witness? Do
14 you have any re-direct?

15 RE-DIRECT EXAMINATION

16 MS. LUCKHARDT: I guess I just want to
17 be clear. It's a mine field. I guess I just have
18 one question regarding work hours and I just want
19 you to clarify what you anticipate as far as the
20 workers and lighting on sites and what you
21 anticipate for work beyond a standard shift, or if
22 you, if there's information from the AFC or
23 something that would help to clarify that?

24 MR. FLAKE: The final shifts have not
25 been settled upon. They will be determined by the

1 contractor. We anticipate a single shift
2 operation, however, my past experience indicates
3 that during certain times of the project there may
4 be some smaller activity on a second or partial
5 shift in the evening.

6 During the winter hours, obviously there
7 is less light, so lighting is used during the
8 morning and evening hours for worker safety and a
9 very, very, small amount of lighting is required
10 for security purposes during the night. Again,
11 that's past experience.

12 I don't -- we have not set in place the
13 exact requirements with the contractor for this
14 project. But I would anticipate they would be
15 very similar.

16 MS. LUCKHARDT: Okay, I have nothing
17 further.

18 HEARING OFFICER SHEAN: If SMUD were
19 under what we might call a time crunch in your
20 mind, to construct this power plant, would you
21 anticipate that under those circumstances you
22 would be asking the contractor to finish it with
23 certain, either time, or let me say, performance
24 incentives for time that would add to the shifts
25 that you've contemplated here?

1 MR. FLAKE: There are a number of ways
2 the that you can increase the number of, you know,
3 the work hours are fixed for the project. And
4 then based on your construction schedule, the
5 contractor can choose to extend a single shift
6 day, they can extend the number of days worked
7 during the week, or they can potentially add a
8 second shift. And that's really up to the
9 discretion of the contractor.

10 HEARING OFFICER SHEAN: You have not yet
11 hired a contractor for this, is that correct?

12 MR. FLAKE: Correct.

13 HEARING OFFICER SHEAN: Do you have,
14 have you prepared BID specifications for potential
15 contractors?

16 MR. FLAKE: We have.

17 HEARING OFFICER SHEAN: And do you have,
18 with a time limit, such as a date on the
19 calendar, or some particular amount of time that
20 you have for the completion of the project?

21 MR. FLAKE: We have developed a
22 preliminary construction schedule that we provide
23 to the contractors that meets the District's
24 requirements.

25 HEARING OFFICER SHEAN: Okay, within

1 that schedule as you see it, does that contemplate
2 multiple shifts, or the single shift and the
3 occasional multiple shifts as you earlier
4 described?

5 MR. FLAKE: It contemplates a single
6 shift that's a long single shift, I believe it
7 doesn't contemplate a second shift at this time.
8 However, you know, on , it could happen.

9 HEARING OFFICER SHEAN: Well, let me ask
10 it this way. Is whether or not it requires a
11 second shift dependent upon when and first of all,
12 if but assuming you do receive certification, when
13 that would be? Could the specifications change
14 depending upon when certification occurs, if it
15 occurs?

16 MR. FLAKE: I'm sorry, I didn't
17 understand the question.

18 HEARING OFFICER SHEAN: Is within your
19 BID specification, in your mind, is the amount of
20 time that is currently contemplated for the
21 construction of the project, dependent upon when
22 certification would occur, if it does from the
23 Commission?

24 MR. FLAKE: Our construction schedule
25 does not depend on when certification is granted,

1 if it's granted by the Commission. It's fixed and
2 it starts when we allowed and permitted to start.
3 Is that your question?

4 HEARING OFFICER SHEAN: I think so. So
5 the follow-up to that then, is if certification
6 occurs later, let's say, than your originally
7 desired date of June, 2003, does that mean you
8 shift the whole construction schedule from that
9 point, or you squeeze a greater amount of work
10 into less time?

11 MR. FLAKE: A combination of both.

12 HEARING OFFICER SHEAN: All right.
13 That's all I have. Thank you very much, that will
14 address --

15 MS. PEASHA: Excuse me Mr. Shean, I do
16 believe that they -- can I have one moment to
17 look?

18 HEARING OFFICER SHEAN: -- yes.

19 RECROSS-EXAMINATION

20 MS. PEASHA: Let me just direct this
21 question to Kevin Hudson. Kevin, doesn't your
22 statement on construction limit daylight hours for
23 the safety of the commuting traffic. Is there, I
24 have no known information about night
25 construction.

1 I believe the safety mitigation was
2 prepared so that construction traffic would not
3 interfere with commuting traffic and that's why
4 there was only going to be day shift construction
5 out there.

6 HEARING OFFICER SHEAN: Ms. Peasha, can
7 I --

8 MS. PEASHA: Do you --

9 HEARING OFFICER SHEAN: -- Ms. Peasha
10 can I ask you to hold your question until we get
11 to that traffic and transportation segment.
12 Because I'm at least able to distinguish that.
13 And the topic of traffic and transportation and
14 peak travel and everything else like that is
15 germane to traffic and transportation.

16 So I'm going to just ask you to hold
17 that question. We will cover that topic area.
18 And obviously the information we've received today
19 begins to open up that area. But it is in the
20 traffic and transportation area, all right? If
21 there anything further then? All right, thank
22 you, your official witnesses are excused.

23 Do you have some visual people here?

24 MS. HOLMES: We have visual witnesses,
25 but I think some of us would like a break before.

1 HEARING OFFICER SHEAN: All right, some
2 of us get a break until 11:00 then.

3 (Thereupon a recess was taken.)

4 HEARING OFFICER SHEAN: Back on the
5 record. And the Committee would like the Staff
6 witnesses who prepared the visual and visual plume
7 sections of the FSA to be -- have you already been
8 sworn in, were you here this morning when people
9 were sworn in? Okay, why don't you go ahead with
10 the mechanics of getting that testimony in.

11 DIRECT EXAMINATION

12 MS. HOLMES: Thank you, Staff's witness
13 in the area of visual resources is Michael
14 Clayton. And Staff's witnesses in the area of
15 visual plumes are Dale Edwards and Will Walters.
16 And they have both been sworn. Let me start with
17 Mr. Clayton, if he's ready. Mr. Clayton, did you
18 prepare the visual resources testimony that's
19 contained in the FSA?

20 MR. CLAYTON: Yes.

21 MS. HOLMES: And was a statement of your
22 qualifications included in the FSA?

23 MR. CLAYTON: Yes.

24 MS. HOLMES: He needs a recording
25 microphone. And did you also prepare changes to

1 the visual resources conditions of certification,
2 which were filed on March 12th?

3 MR. CLAYTON: Yes. And do you have any
4 additional changes to your testimony at this time?

5 MR. CLAYTON: Yes, there are two changes
6 to VIS-3, which starts on page 53 of the
7 supplemental testimony. There are two language
8 changes, which I'd like to read in, which we have
9 also received -- have arrived at agreement with
10 the applicant on these changes. The first change
11 is again, on page 53, under the category C, number
12 1, that paragraph, that item list number is being
13 changed to read as follows. Tree species that are
14 native to the central valley, fast growing and
15 expected to reach the greatest height at maturity
16 for site conditions. And that replaces the
17 existing item 1, item C1.

18 The second change, is on page 54, the
19 following page. Under the same condition and it
20 is the paragraph before the heading, middle of the
21 page, reading verification in that previous
22 paragraph.

23 The change is as follows in the middle
24 of the paragraph, where it starts however, the new
25 change reads as follows. For the area West of the

1 power plant site, the planting must be completed
2 by the end of the first season that is optimal for
3 planting during the first year after the start of
4 site mobilization or other CPM approved time
5 frame. And that's the end of the changes.

6 MS. PEASHA: And that's the planting of
7 the visual impacts?

8 MR. CLAYTON: That's the planting of the
9 landscaping for visual mitigation.

10 MS. HOLMES: And with those changes and
11 corrections, are the facts in your testimony true
12 and correct to the best of your knowledge?

13 MR. CLAYTON: Yes.

14 MS. HOLMES: And do the opinions in your
15 testimony represent your best professional
16 judgement?

17 MR. CLAYTON: Yes.

18 MS. HOLMES: Thank you. And now I'd
19 like to turn to the visible plumes testimony. Mr.
20 Edwards and Mr. Walters, was that testimony
21 prepared by you or under your direction

22 MR. WALTERS: Yes.

23 Mr. EDWARDS: Yes it was.

24 MS. HOLMES: And are you also including
25 in that the changes to the visible text and

1 conditions of certification that were filed on
2 March 12th?

3 MR. WALTERS: Yes.

4 MR. EDWARDS: Yes.

5 MS. HOLMES: And was a statement of your
6 qualifications included in the FSA?

7 MR. WALTERS: Yes.

8 MR. EDWARDS: Yes.

9 MS. HOLMES: And do either of you have
10 changes or corrections to those pieces of
11 testimony.

12 MR. WALTERS: No.

13 MR. EDWARDS: No.

14 MS. HOLMES: Are the facts contained in
15 your testimony true and correct to the best of
16 your knowledge?

17 MR. WALTERS: Yes.

18 MR. EDWARDS: Yes they are.

19 MS. HOLMES: And do the opinions
20 contained in your testimony represent your best
21 professional judgement?

22 MR. WALTERS: Yes.

23 MR. EDWARDS: Yes they do.

24 MS. HOLMES: Thank you. And now I'd
25 like to ask the Committee, perhaps, for direction

1 whether or not they would like to have separate
2 summaries prepared for the visual resources
3 testimony and visible plumes testimony, or if you
4 would just prefer to have one summary. Or if you
5 would just like to move directly to questions?

6 HEARING OFFICER SHEAN: I think we'll
7 move directly to the questions, since they were
8 not listed for direct testimony? If there
9 objection of the qualification of the witnesses as
10 experts? Hearing none they are so qualified.

11 Is there objection to the admission of
12 the amended testimony on visual resources and
13 visible plumes? Hearing none, it's admitted.

14 I'd like the Committee here to lead this
15 off because I just want to ask a couple of
16 questions. Were you present at the testimony
17 earlier this morning provided by the SMUD
18 witnesses with regard to the number and timing of
19 shifts, including information about deliveries by
20 long-haul trucks, et cetera in evening hours?

21 MR. CLAYTON: Yes I was.

22 HEARING OFFICER SHEAN: Was your
23 testimony on visual resources and the conditions
24 that you have proposed made in contemplation of
25 that information?

1 MR. CLAYTON: Yes it was made
2 in -- under the assumption that there would be
3 some degree of night time construction.

4 HEARING OFFICER SHEAN: Would you have
5 any different recommendations for conditions if
6 there were multiple shifts, including an evening
7 shift?

8 MR. CLAYTON: No. Our conditions
9 currently account for that.

10 HEARING OFFICER SHEAN: Okay, with
11 respect to the visible plume, just sort of cut to
12 the chase here, what in your professional opinion
13 supports your conclusion that these visible plumes
14 do not represent a significant visual impact?

15 MR. EDWARDS: Based on Staff methodology
16 for doing the analysis of visible plumes from
17 cooling towers or from heat recovery steam
18 generator stacks, in the case of this -- or in
19 this particular case, the heat recovery steam
20 generator stacks did not produce a plume that was
21 greater than 10 percent in frequency and
22 therefore, no further detail analysis was done for
23 those.

24 However, for the cooling tower plumes,
25 they did exceed that ten percent frequency at 18.5

1 percent of the seasonal daylight, no rain, no fog,
2 clear hours, such that we did do a detailed
3 analysis.

4 And the conclusion of that analysis was
5 that from two key observation points, based on the
6 various factors involved in the analysis, which
7 are discussed in the analysis and cover the areas
8 of setting as well as visual change from the
9 project.

10 Staff's result was that the plumes as
11 viewed from these two KOPs, which are at one mile
12 and two mile distant from the project site, based
13 on the visual sensitivity of the viewers as well
14 as the change to the physical environment
15 represented by the addition of plumes, when they
16 exist, was that the plumes, when they do exist,
17 would be co-dominant or less than co-dominant to a
18 subordinate level or distant locations. And as
19 such, overall would be less than significant
20 impact.

21 HEARING OFFICER SHEAN: Staff has
22 proposed a condition called Plume-1, can you state
23 the purpose of that?

24 MR. EDWARDS: In most cases, when Staff
25 recommends a conditions of certification it's done

1 so to reduce to lessen significant an impact that
2 we find to be significant. In this case, however,
3 we did not find the plumes to be significant
4 impact.

5 However, it's been our practice of
6 recent cases and will continue to be from visual
7 resource staff's perspective at least, that we
8 want to ensure that this less than significant
9 impact, is in fact the case for the duration of
10 the project life, such that we recommend these
11 conditions, like this one here in this case.

12 That the cooling towers be designed in a
13 manner that matches the analysis that we did, and
14 the Applicant did as well, for the siting case, so
15 that what actually happens in operation of the
16 project is consistent with what we analyze during
17 the siting case.

18 HEARING OFFICER SHEAN: Now, the typical
19 practice at the Commission is generally to have
20 the verification contain essentially two things,
21 the identification of how the verifying
22 documentation will be presented and a timetable
23 for it's presentation. I notice here that there
24 is a significant amount of substance in the
25 verification. Can you tell me why that is

1 appearing in the verification and not in the
2 condition itself?

3 MR. EDWARDS: It probably would be best
4 if I pulled that up, but I'm going to operate from
5 memory for a moment.

6 MS. HOLMES: Why don't you put it in
7 front of you first.

8 MR. EDWARDS: Hang on a second.

9 MS. HOLMES: Take your time.

10 MR. EDWARDS: One moment.

11 HEARING OFFICER SHEAN: Predominantly
12 the second paragraph.

13 MR. EDWARDS: I think in this case what
14 Staff is attempting to do is that the condition
15 portion, or the verification -- excuse me, the
16 requirement portion of the condition, which is
17 above the verification states the intended goal
18 that we want to see the project cooling towers
19 operate and designed and operated such that plume
20 frequencies would not increase beyond the design
21 as certified.

22 And then everything in the verification
23 is a method of verifying, in fact that that design
24 as specified to us, will meet the goal stated in
25 the requirement portion.

1 And the way that they do this is by
2 submitting the design plans to us, or as it's
3 described here, the project owner shall provide
4 the CPM for review the final design specifications
5 so that we can verify that the design does match
6 the criteria that is established. And within the
7 verification statement in the next paragraph,
8 which are the temperatures and the, temperatures
9 of both the heat rejection rate, as well -- or the
10 exhaust flow as well as the ambient temperatures.

11 HEARING OFFICER SHEAN: Is paragraph two
12 of the verification, the design you think is being
13 certified?

14 MR. EDWARDS: Could you say that again.

15 HEARING OFFICER SHEAN: Paragraph two of
16 the verification, the design of the cooling tower
17 that you believe is being certified?

18 MR. EDWARDS: Right, this is a, this is
19 basically --

20 HEARING OFFICER SHEAN: So that's a yes?

21 MR. EDWARDS: -- yes, this is a
22 description of the parameters that are consistent
23 with the design that was modeled in our analysis.

24 HEARING OFFICER SHEAN: Let me just go
25 back to visual resources again and ask the

1 hypothetical question that was asked by a
2 combination of Ms. Peasha and myself. I'm
3 assuming that the presence of the cooling towers
4 for the Rancho Seco Nuclear Power Plant were a
5 factor in your assessment of the overall visual
6 sensitivity and quality of the area. And what
7 would be your opinion as to the significance of
8 the proposed project, if the Rancho Seco cooling
9 towers were not there?

10 MR. CLAYTON: It is possible that the
11 outcome of the impact analysis would conclude that
12 the proposed project may have a greater impact
13 without those existing towers being there. But,
14 my response actually would be somewhat similar to
15 the Applicants response, in that you would need to
16 make an evaluation of the project, of the existing
17 landscape setting without those structures.
18 You're talking about just the cooling towers being
19 removed or the entire Rancho Seco Facility, that's
20 two different things.

21 If we assume it's just the cooling
22 towers that we're talking about, we still have
23 some degree of industrial features in the
24 landscape and so it would require analysis, it
25 would require simulations and then based on that

1 we'd make a final judgement. But clearly, the
2 cooling towers are a prominent contributing
3 feature to the existing landscape with industrial
4 character and that would be lessened with their
5 removal.

6 PRESIDING MEMBER PERNELL: On the less
7 than ten percent, this is on the plume, and it was
8 stated that it's less than ten percent of the
9 time. What's the time we're talking about, is
10 that eight hours, 24 hours?

11 MR. EDWARDS: The ten percent in total
12 hours for the seasonal period, which is the
13 November through April time frame that Staff uses
14 for it's analysis. In this case, the ten percent
15 represents 293 hours spread across that six month
16 period.

17 HEARING OFFICER SHEAN: And do we
18 understand that ten percent, less than ten percent
19 you said applies to the heat recovery steam
20 generator plume and the cooling tower plume would
21 be approximately 18.5 percent, is that correct?

22 MR. EDWARDS: The cooling tower plume is
23 18.5 percent, right, the -- plume was actually at
24 three percent.

25 PRESIDING MEMBER PERNELL: We're talking

1 about daylight hours?

2 MR. EDWARDS: Yes, I think Will wants to
3 pitch in here.

4 MR. WALTERS: Actually it's daylight
5 hours where the hours where there's already some
6 sort of visible impairment have been taken away.
7 If it's a fog hour, rain hour, where the
8 visibility is less than a certain distance, which
9 in this case, I think we used five miles.

10 We consider those to be already visually
11 impaired hours. So the actual phrase that we use
12 for these particular hours is called seasonal
13 daylight, no rain, no fog, clear hours. And clear
14 is another separate definition which defines the
15 background, essentially the cloud cover that
16 exists during that hour that was modeled.

17 And essentially if the background is
18 about 50 percent, or more clear, then we call that
19 a high contrast hour. Whereas if there are clouds
20 in the background, that would be a low contrast
21 between the plume and the background.

22 CROSS-EXAMINATION

23 MS. PEASHA: Mr. Edwards, could you
24 please turn to appendix A or your visual plumes
25 testimony? Under existing visual setting, could

1 you please read your rating for the overall visual
2 sensitivity for KOP2 and KOP3?

3 MR. EDWARDS: You're talking about the
4 summary page, right?

5 MS. PEASHA: The appendix A, yeah, the
6 visual plume testimony.

7 MR. EDWARDS: Okay, the overall visual
8 sensitivity?

9 MS. PEASHA: The KOP of -- yeah, the
10 visual sensitivity, the overall one.

11 MR. EDWARDS: For both KOP2 and 3?

12 MS. PEASHA: Yes Sir.

13 MR. EDWARDS: The first one, overall
14 visual sensitivity for KOP2, which is a point
15 approximately one mile from the proposed sight is
16 moderate. And the overall visual sensitivity for
17 KOP3 is moderate to high. This is a point that is
18 about two miles from the proposed site.

19 MS. PEASHA: Okay, now could you please
20 turn to appendix VR1 that was prepared by Michael
21 Clayton, who I understand is under your
22 supervision. Is KOP and KOP3, KOP2 and KOP3
23 listed in appendix VR1 the same? The same KOP2
24 and KOP3 are in your appendix A?

25 MR. EDWARDS: The KOPs are the same.

1 MS. PEASHA: Could you please read what
2 Mr. Clayton concluded for overall visual
3 sensitivity for KOP2 and KOP3?

4 MR. EDWARDS: For KOP2, under overall
5 visual sensitivity, he has moderate to high for
6 residents and moderate for motorists. And under
7 KOP3 he has moderate.

8 MS. PEASHA: It is my understanding that
9 these determinations for visual sensitivity is for
10 the existing setting with no consideration of the
11 new power plant, is that correct?

12 MR. EDWARDS: Right, it's as the current
13 status is of the area.

14 MS. PEASHA: So there are two different
15 opinions concerning overall visual sensitivity on
16 the same setting?

17 MR. EDWARDS: Somewhat dissimilar, yes.

18 MS. PEASHA: That would be a yes?

19 MR. EDWARDS: Yes.

20 MS. PEASHA: Why are there two different
21 conclusions, if both of you are looking at the
22 same scene.

23 MR. EDWARDS: Well, this gets to a
24 factor that's involved with the fact that we do
25 have two different kinds of analyses happening

1 here at this point where there is a visual
2 resource analysis, then there's a visible plume
3 analysis. The visual resource analysis is using a
4 slightly different set of factors to arrive at
5 that overall visual sensitivity, than the visible
6 plume analysis uses.

7 MS. PEASHA: Why would you use slightly
8 different analyses? Why wouldn't they be
9 consistent?

10 MR. EDWARDS: Well, the factors in the
11 analysis are somewhat different and the reason for
12 the difference is that in the case of visual
13 resource analysis, which has been done by the
14 Energy Commission Staff for a number of years.
15 For that period of years, there has been a
16 consistent revision over time to improve our
17 analyses, to make more realistic and reasonable
18 findings in every case to the extent feasible.

19 In this particular case, we've reached a
20 point with the plume analysis where we found some
21 changes that were identified as being beneficial
22 to the analysis to improve it's results. And in
23 this case, as well as another siting case and
24 others to come, the new methodology that has been
25 used for the visible plume analysis, has been

1 adopted and it will be, as I say used in other
2 cases.

3 So it is a change in the view of staff
4 and improvement over what we've previously done.
5 However, in the Cosumnes case, this change has
6 only been used, or this new methodology has only
7 been used for the visible plume section and not
8 for the visible resource element as well. But in
9 some future cases, we'll be using it across the
10 board for the visual resource analysis including
11 plumes.

12 MS. PEASHA: But isn't that -- but it is
13 inconsistent to what, to what you're looking at?
14 You've --

15 HEARING OFFICER SHEAN: He's answered
16 that they are inconsistent. I have a question
17 here. Is there any statement or explanation in
18 Staff's testimony, including testimony filed up to
19 Wednesday afternoon, that explains to the
20 Committee and the Commission that a portion of the
21 analysis used for visual resources is now using,
22 or is presented using a methodology that has been
23 superseded, is it in here?

24 MR. EDWARDS: Well it hasn't been
25 superseded in essence, because it's still here.

1 HEARING OFFICER SHEAN: Well you have a
2 better methodology. If I understand your
3 testimony, you've indicated you have a better
4 methodology in appendix B for what you used for
5 the visual plume. And that as a result of a
6 progression in methodologies used by the Staff,
7 you are in the future, going to use the
8 methodology that appears in appendix B.

9 It just so happens that the methodology
10 in the conclusions in appendix A, use an old
11 methodology and have come to a different result in
12 the characterization of the visual sensitivity.
13 My question is, have you explained in any point in
14 the testimony that has been filed for this
15 Committee and the Commission in deciding this
16 particular application that there is that
17 difference and that you are standing by both
18 analyses?

19 MR. EDWARDS: I don't believe we have
20 that in our testimony at this time. But we
21 certainly can provide that as a --

22 HEARING OFFICER SHEAN: Well, you've
23 already provided it in a question by Ms. Peasha,
24 but I guess the question is, why didn't you
25 volunteer that. And since that's argumentative,

1 I'm not going to ask you.

2 (Laughter.)

3 HEARING OFFICER SHEAN: Do you have
4 anything further, Ms. Peasha?

5 MS. PEASHA: Yes I do. If you've used
6 the overall visual sensitive of moderate to high,
7 used by Mr. Clayton in your analysis, taken from
8 my house, would that rating of sensitivity
9 possibly be changed -- be changed, possibly
10 changed your conclusions concerning the
11 significance of the cooling tower plumes?

12 MR. EDWARDS: It may have the potential
13 to do that. I'd have to think of it more
14 carefully and what it actually does. What happens
15 when you bring this combination of factors
16 together, in particular the overall visual change
17 and the overall visual sensitivity, different
18 levels of those factors cause different kind of
19 outcomes in Staff's methodology.

20 It's either definitely significant or
21 definitely not significant. Or it falls into a
22 category of maybe significant. And when it's in
23 that maybe zone, there are extra factors or
24 additional thinking that goes into deciding
25 whether that is in fact a falls to a less than or

1 a significant impact level. And I haven't done
2 that analysis in that way. So I couldn't really
3 give you an answer right on the spot.

4 MS. PEASHA: But that point shows the
5 inconsistency of methodology going on there.

6 MS. HOLMES: That's an argumentative
7 question. If you've got a factual question,
8 that's fine.

9 MS. PEASHA: Okay, okay. According to
10 your resume, Mr. Edwards, you are the Supervisor
11 of the Cultural, Visual and Socioeconomic Resource
12 Unit, is that correct?

13 MR. EDWARDS: Yes.

14 MS. PEASHA: And as the supervisor, I
15 see in your resume that you're responsibilities
16 include overseeing the staff in their analyses of
17 culture, visual and socioeconomic issues, is that
18 correct Sir?

19 MR. EDWARDS: Yes.

20 MS. PEASHA: Your resume states that
21 your duties do not include the preparation of
22 technical analyses, is this correct?

23 MS. HOLMES: Do you want to look at your
24 resume before you answer that question, so you
25 know exactly what it says? We can pull it from

1 the FSA.

2 MR. EDWARDS: That would be helpful.

3 MS. PEASHA: So you --

4 MS. HOLMES: We're waiting. He needs to
5 have it in front of him before he can answer your
6 question.

7 MS. PEASHA: Did he not answer my
8 question? Oh, okay, I'm sorry, I didn't understand
9 that.

10 MR. EDWARDS: It doesn't appear that it
11 specifically -- or it does not state that I do
12 testimony or do analyses in cases on any of those
13 subjects that I supervise. However, my duty
14 statement, which is other than my resume, does say
15 that basically I am responsible for the products
16 that come out of the unit.

17 And on occasion, that means that I have
18 to, whether it's for a resource issue that
19 somebody is not available to actually do the work,
20 or many other reasons that may come up over time,
21 have to take on the responsibility to actually
22 write or perhaps, not even write, but assume the
23 technical testimony level at hearings and other
24 things when people are not available to do so.

25 It's a pretty wide range of stepping in

1 when needed. In this particular case, as I said,
2 we had a revised methodology which was important
3 to start using. And I volunteered basically to
4 step in and do this one.

5 MS. PEASHA: Well, Mr. Clayton, he
6 prepared the visual structure analysis, why
7 couldn't he also perform the plume analysis?

8 MS. HOLMES: Are you asking him why he
9 didn't? Because that's a question I won't to
10 object to.

11 MS. PEASHA: Well he just told me, well
12 okay-- prior to 1998

13 HEARING OFFICER SHEAN: Let's just --
14 you asked the question, do you want to object to
15 it? Why he did not, why Mr. Clayton did not?

16 MS. HOLMES: I objected to why couldn't
17 he. I said if she wanted to ask why he didn't,
18 then I would not have an objection to that
19 question.

20 MS. PEASHA: Okay. I will, let me
21 rephrase that, please then. Prior to 1998, before
22 you were the supervisor of the unit, had you ever
23 prepared technical analysis or testimony in the
24 area of visual resources?

25 MR. EDWARDS: No.

1 MS. PEASHA: I presume that you have a
2 number of technical staff at your hands that could
3 have prepared the visual plume analysis, is that
4 correct?

5 MR. EDWARDS: Partially correct. I have
6 two or three or so staff members that can do a
7 visual impact analysis. The availability of those
8 staff is a totally different question. And in
9 fact, in recent years, Staff availability has been
10 very poor with house, to the extent that we've had
11 to hire outside consultants, which we've also kept
12 extremely busy.

13 Mr. Clayton is one of those. It's my
14 recollection that based on where we were at the
15 time that this analysis was being done, that Mr.
16 Clayton already had his hands full. And that is
17 certainly part of the reason that I volunteered to
18 do this analysis.

19 MS. PEASHA: Mr. Clayton is that true on
20 your aspect?

21 MR. CLAYTON: Yes, in the sense that at
22 the time that the analysis was done, the visual
23 resources methodology dealing with structures was
24 proceeding. We were in a process of revising and
25 refining the plume analysis, the plume

1 methodology.

2 And we were to keep on schedule and on
3 track, it was decided that that structural
4 analysis would go forward and then with, as Dale
5 has alluded to with my other project workload, I
6 was not able to come back in and pick up a plume
7 analysis at a later date.

8 MS. PEASHA: So there was no way that
9 you could have performed the plume analysis as
10 well as the visual structure analysis on this
11 project?

12 MS. HOLMES: At this point, I am going
13 to object. If she wants to challenge the
14 witnesses qualifications, as an expert, that's a
15 legitimate activity she can undertake. But it is
16 not a legitimate question to who Staff could have
17 assigned amongst it's experts to do this kind of
18 analysis.

19 HEARING OFFICER SHEAN: Well I think
20 rather than that, the proper objection would have
21 been, it's been asked and answered. And I think
22 that is correct. That he has already answered it
23 to the extent that he can. He had other --

24 MS. PEASHA: Mr. Edwards, did you agree
25 with the methodology used to determine the

1 significance impacts from the cooling tower
2 plumes?

3 MS. HOLMES: Are you asking him whether
4 he agrees with his own testimony? Is that the
5 criteria you're referring to?

6 MS. PEASHA: Well, I'm asking him that
7 he -- did he prepare the plume analysis because he
8 did not agree with the -- what his technical staff
9 may have provided? Or was there a disagreement
10 between your methodology with you and your staff?

11 MR. EDWARDS: Which methodology are you
12 talking about?

13 MS. PEASHA: About the cooling tower
14 plumes?

15 MR. EDWARDS: The current methodology
16 that I used?

17 MS. PEASHA: Yes.

18 MR. EDWARDS: As I think we've already
19 described, there's been a lot of discussion, in
20 particular over the last couple of years about the
21 plume methodology and it's structure and what
22 elements it should consider. And even back to the
23 ten percent threshold that we've spoken of. All
24 these things are subject to discussion, or have
25 been subject to discussion over time to seek out

1 improvements to the methodology. It is true that
2 not everybody agrees all the time.

3 And there is a desire on my part at
4 least, as a supervisor of the unit to make
5 progress on how we do our work. And I think it
6 would be true or appropriate to say that some
7 people that do visual analysis agree with the
8 methodology changes that I've used in my analysis
9 of this project. And there are others that
10 disagree.

11 MS. PEASHA: But, as a supervisor, you
12 usually do not supply the analyses, is that
13 correct?

14 MR. EDWARDS: It's not desirable. It's
15 not, as I said, it's not something that I do as a
16 rule, but it's certainly something that is within
17 the duties of my job. And when I say it's not
18 desirable, it's because I have many other things
19 I'm doing as well.

20 MS. PEASHA: Okay, in the area of visual
21 assessments, there are two separate analysis by
22 the two separate authors that essentially cover
23 the same topic. That is the visual impacts of the
24 proposed plant. Is that correct?

25 MS. HOLMES: Is that a question?

1 MS. PEASHA: Yes.

2 MR. EDWARDS: Yes.

3 HEARING OFFICER SHEAN: She said is that
4 correct? But that was asked and answered, that
5 was actually one of your first and very good
6 questions. So, if you're going to go somewhere,
7 maybe you can tell me where you're going to go now
8 with the line of questioning?

9 MS. PEASHA: I don't believe that the
10 methodology that the technical staff wanted is
11 what he agreed on.

12 HEARING OFFICER SHEAN: Okay. And he
13 has testified that there are differences of
14 opinion within his unit and he proceeded with the
15 analysis that he provided and not everyone agrees
16 with that.

17 MS. PEASHA: Isn't the more common other
18 project proceedings to combine the impact analysis
19 of the plumes and the building structures together
20 under one assessment?

21 MR. EDWARDS: I think your asking me is
22 it commonly -- that there --

23 MS. PEASHA: Is the more --

24 MR. EDWARDS: It is commonly that
25 they're combined? And yes that's true.

1 MS. PEASHA: Okay, in looking at the
2 visual plumes appendix B, I have some questions as
3 to how you use this analysis to determine your
4 significance in your analyses.

5 MS. HOLMES: These would be questions
6 for Mr. Walters. I believe he's sponsoring
7 appendix B.

8 MR. WALTERS: Actually if it's any
9 determination of significance then it would still
10 be Mr. Edwards.

11 MS. HOLMES: Well, then let's fight for
12 the question.

13 MS. PEASHA: Thank you. Table-3 of
14 appendix B shows various predicted cool tower
15 plume dimensions, is that correct?

16 MR. WALTERS: Yes it is.

17 MS. PEASHA: I was struck at looking at
18 this Table, how big these plumes can be at certain
19 times. Using the model of Staff, that Staff that
20 model used, it is possible at times the visible
21 plumes can be anywhere from 200-feet to 4000-feet
22 tall. Am I reading this correct?

23 MR. WALTERS: Yes you are. And that's
24 the basis of the model. You have to realize that
25 the model assumes all meteorological conditions

1 that occur.

2 So when it's foggy out, or the other 100
3 percent relative humidity conditions, the water
4 has no place to go. So those hours, particularly
5 when you're looking at the all hours category, are
6 generally hours where you don't have a good
7 visible condition. You have an impaired condition
8 already.

9 MS. PEASHA: So referencing to the
10 Rancho Seco towers, at 426-feet high, they could
11 be up to ten times as high as the towers alone, is
12 that correct?

13 MR. WALTERS: That's what the modeling
14 predicts.

15 MS. PEASHA: Looking at Table-9 of the
16 appendix B, this Table shows frequency in hours
17 and number of seasonal days when plumes occur. To
18 help me understand this, the first column, the
19 relative plume size, is the same percentile
20 ranking as the percentile column shown in Table-3,
21 correct?

22 MR. WALTERS: The uh, they're
23 percentiles, but I don't think Table-3 uses all of
24 the same cuts. They go one to five, to ten to
25 fifteen, whereas we have one, five, ten and fifty.

1 But, I mean the percent -- I mean it's a
2 percentile. So that's the only way to say that
3 they're the same.

4 MS. PEASHA: They are -- then that is
5 yes to that?

6 MS. HOLMES: That mis-characterizes his
7 answer.

8 HEARING OFFICER SHEAN: Well, let's get
9 it clear then. Is top one percent the same as top
10 one percent, is top five percent the same as top
11 five percent, is top ten percent same as top ten
12 percent, understanding that one says 50 percent
13 and the other does not say 50 percent?

14 MS. HOLMES: Again, there is a number of
15 top one's, five's, ten's and fifties in Table-3,
16 so let's at least be clear about which ones we're
17 talking about. Mr. Walters.

18 MR. WALTERS: In relation to the data,
19 it's different. Because this particular data set
20 uses the clear, specifies the clear hours. So
21 it's not the same as the other three data sets.

22 MS. PEASHA: Well that would be --

23 MR. WALTERS: It's a further refinement
24 of the analysis. To give you some background, let
25 me tell you how we do the analysis to start with.

1 What we do initially, is we make a determination
2 of whether or not we have what we consider a
3 baseline problem, which requires more analysis.
4 And that is defined as, if plumes are more
5 frequent than ten percent of seasonal daylight, no
6 rain, no fog. Which this case, did go over the
7 ten percent. So additional analyses is performed.

8 That additional analysis uses the clear
9 hour background to determine the impact, or to
10 determine the impact that the visual resource
11 staff determines, because I don't determine
12 impact.

13 What we're looking at then, is we're
14 determining that when we have plumes, that have
15 contrasting background, or essentially a high
16 visual contrast hour, which is essentially what
17 the clear hour is. So it's a further refinement
18 of the data. And so it's actually a slightly
19 different set of data then is provided in Table-3.

20 MS. PEASHA: -- okay, so first, example
21 under the Table-9, row top, five percent,
22 approximately 33 percent of the days between
23 November and April, or about 60 days, I would
24 expect to see a plume in the top five percentile,
25 correct?

1 MR. WALTERS: In a top five percentile
2 from Table-6, yes?

3 MS. PEASHA: From table --

4 MS. HOLMES: She's looking at Table-9.

5 MR. WALTERS: Right, what I'm saying is,
6 when you are taking the size that relates to that
7 percentage, you need to use Table-6, not Table-3,
8 because these are both clear hour Tables.

9 MS. PEASHA: Well, Table-3, in the
10 height row, five percent, the height of the
11 cooling tower plumes could be almost 600-feet tall
12 with 1000 megawatt power plant.

13 MS. HOLMES: Again, which one of the
14 columns and which one of the rows are you
15 referring to on Table-3?

16 MS. PEASHA: Table-3 towards the bottom
17 of the table of the height.

18 MS. HOLMES: Are you referring to the
19 seasonal daylight, no rain, no fog hours?

20 MS. PEASHA: I am looking at, in the
21 height row, five percent. The height of the
22 cooling tower plumes for between November and
23 April.

24 MS. HOLMES: Do you understand where
25 she's looking, Mr. Walters?

1 MR. WALTERS: No, not exactly.

2 MS. HOLMES: I believe it's Table-3?

3 MS. PEASHA: Yes.

4 MS. HOLMES: Seasonal daylight, no
5 rain/fog hours, height, fifth percentile.

6 MS. PEASHA: Right.

7 MR. WALTERS: And which column are you
8 referring to?

9 MS. PEASHA: The bottom of the Table.
10 In height row-5, the height of the cooling plume
11 towers at 600-feet with 1000 megawatt.

12 MS. HOLMES: I'm sorry, we're not -- I'm
13 not finding that.

14 MR. WALTERS: We have four distinct
15 columns.

16 MS. PEASHA: I understand that, I don't
17 have those in front of me because I've got
18 everything else in front of me here. There we go.
19 Uh huh, okay, thank you for doing that for me.
20 Okay, Table-9, row at five percent, uh -- I have
21 that backwards, wait a minute. Table-3 at five
22 percent, days with plumes, would be in the bottom
23 of the Table-3 there. At five percent would be
24 anywhere from -- to a thousand, almost 600-feet
25 tall.

1 MS. HOLMES: I'm sorry, I'm still not
2 finding your reference on Table-3.

3 MS. PEASHA: Table-3, five percent under
4 the CSBP model 18 cells, which would be the whole,
5 would be 597 is what it says.

6 MR. WALTERS: Right, but that's meters,
7 not feet.

8 MS. PEASHA: That's meters. So you're
9 telling me the height of the plume at five percent
10 would be almost 600 meters?

11 MR. WALTERS: See, that's what the model
12 predicts. The model is somewhat conservative.
13 Much like air quality modeling, the modeling we
14 perform is somewhat conservative so that we make
15 sure that we don't underestimate the impacts.

16 MS. PEASHA: So for about 60 days out of
17 the year I'm going to see towers or plumes higher
18 than Rancho Seco from my house?

19 MS. HOLMES: Could you rephrase that
20 question again please?

21 MS. PEASHA: For about 60 days of the
22 year, and that's the -- in that period of time,
23 between November and April I'm going to see
24 plumes, I could see plumes taller than the Rancho
25 Seco Power Plant?

1 HEARING OFFICER SHEAN: Towers.

2 MS. PEASHA: Towers.

3 HEARING OFFICER SHEAN: Cooling towers.

4 MS. PEASHA: Yes, the cooling towers
5 themselves.

6 MR. WALTERS: Excuse me, what was the
7 percentage again that you stated?

8 MS. PEASHA: Uh, 60 days a year, you
9 know, two months, or --

10 MR. WALTERS: That would be
11 approximately right, but it's not exactly the way
12 we set the data up, so I couldn't give you an
13 exact number. I mean I can sort the data in that
14 fashion, but it would take me a while.

15 MS. PEASHA: But, but, in good
16 conscience wouldn't you say that where I live,
17 looking at a plume for an hour or so for every day
18 for over two months at that height is highly
19 significant?

20 MR. WALTERS: I don't do the
21 significance analysis.

22 MS. PEASHA: Mr. Edwards?

23 MR. WALTERS: But just to give you a
24 framework of the plumes. The largest plumes
25 generally occur in the first, what we call the

1 first hour of the day, which is actually a partial
2 hour, that includes, that would include false
3 dawn, and dawn and any -- essentially the first
4 hour we consider daylight hour includes at least
5 30 minutes after sunrise. The largest plumes are
6 always generally in that first hour.

7 Or in the second hour right after
8 sunrise and the plumes get smaller throughout the
9 day or in fact, you don't have plumes during parts
10 of the middle of the day. And then occasionally
11 the plumes will start reappearing and or get a
12 little larger at the very end of the day, but
13 they'll never be the really large plumes, which
14 are always first thing in the morning.

15 MS. PEASHA: Depending on the ambient
16 temperature, though, isn't that correct?

17 MR. WALTERS: But the ambient
18 temperature is what we use in the modeling, we
19 used hourly data for four years of hourly data.

20 MS. PEASHA: So I can say for 60 days of
21 the year I'm going to be looking at plumes that
22 could be that large.

23 MR. WALTERS: If you get up first thing
24 in the morning and look at them.

25 MS. PEASHA: Okay, Mr. Edwards, in your

1 testimony on page 4.11-15, you discussed there
2 were mitigation measures that would reduce the
3 dimensions and frequency of the visual cooling
4 tower plumes, is that correct?

5 MR. EDWARDS: Yes.

6 MS. PEASHA: Is a wet/dry plume
7 abatement technology that you describe
8 commercially available?

9 MR. EDWARDS: Yes.

10 MS. PEASHA: Has the other -- has this
11 plume abatement technology been applied to other
12 power plants in California or elsewhere in the
13 United States?

14 MR. EDWARDS: Yes.

15 HEARING OFFICER SHEAN: Which is it,
16 California or the United States? She made it
17 compound at the end.

18 MS. PEASHA: Both in California and
19 elsewhere in the United States.

20 HEARING OFFICER SHEAN: I know and I
21 want to get it, which one.

22 MR. EDWARDS: I agree, yes.

23 HEARING OFFICER SHEAN: California?

24 MR. EDWARDS: In California.

25 MS. PEASHA: And in the United States.

1 And elsewhere in the United States too Sir.

2 MS. HOLMES: If you know.

3 MR. EDWARDS: I don't have exact
4 knowledge of that, but I would certainly expect
5 so.

6 MS. HOLMES: Mr. Walters says he can
7 answer that question.

8 MR. WALTERS: Yes, it has been used in
9 other areas of the United States, primarily in
10 really cold weather areas of Chicago, New
11 Hampshire, areas like that.

12 MS. PEASHA: Uh, we already asked that
13 question.

14 HEARING OFFICER SHEAN: For purposes of
15 clarification in the statement on 4.11-15 when you
16 say a wet/dry plume abatement system for the
17 proposed CPP would cost approximately 2.5 million
18 et cetera. is that -- when you refer to wet/dry
19 at that point, is that a hybrid wet/dry cooling
20 system?

21 MR. EDWARDS: Yes.

22 HEARING OFFICER SHEAN: Okay, let me
23 just go one step further for clarification. Are
24 there plume abatement techniques for wet cooling
25 that would reduce the size of cooling tower plumes

1 in the wet cooling situation?

2 MR. EDWARDS: I don't have a lot of
3 information on that, I'm not -- maybe Will does.

4 MR. WALTERS: Well, there are other
5 technologies that you wouldn't actually call a wet
6 cooling tower. There is a wet surface air
7 condenser, which can reduce plume formation
8 depending on how it's designed and built.
9 Obviously there is air cooled condensers, which
10 again is a different technology.

11 And then there's the wet/dry systems,
12 which are essentially a dry, or well, or often
13 times a dry unit that is either on the side of or
14 on top of the conventional wet cooling tower,
15 which brings the exhaust condition below
16 saturation level. And that's essentially how it
17 works.

18 So it's not exactly a different
19 technology, it's actually adding a technology onto
20 a conventional wet tower. In the case of the type
21 of hybrid, or type of wet/dry that we're
22 considering here.

23 MS. PEASHA: Would it significantly
24 lower the plumes?

25 MR. WALTERS: It would depend on the

1 design. As you can see in the Table that I
2 provided, I mean, there are lots of different ways
3 to design it. In terms of how much dry cooling
4 you put above the wet cooling section. So it can
5 essentially eliminate the plume if you put in
6 enough dry to the point of very, very low
7 frequencies.

8 But if you put in a system that's
9 smaller, in fact, the system that we identified as
10 the 2.5 million case, I believe is a minimal
11 system, is essentially the first or smallest
12 amount of dry cooling that you would put on or at
13 least that is generally commercially available.

14 And it would be more similar to the top
15 row of the Table where I identify the plume
16 abatement, the 52 degree fahrenheit, 73 percent
17 relative humidity design point.

18 MS. PEASHA: But with the wet/dry you
19 could significantly take away the impact of
20 visual sensitivities?

21 MS. HOLMES: I think Table-13 speaks for
22 itself. He's identified the amount of reductions
23 that you would get based on the model results,
24 based on the design that you used. If you have an
25 additional question about Table-13, please go

1 ahead and ask it.

2 MS. PEASHA: Page 10 of appendix B, this
3 study shows -- the plume abatement section in
4 here, the cooling tower plumes can be abated
5 through the use of air cooled condenser dry
6 cooling. That is prepared by, who is that
7 prepared by, Mr. Walters? Is that who?

8 MR. WALTERS: Yes.

9 MS. PEASHA: Okay. So to eliminate -- I
10 mean, in your opinion to -- for plume abatement
11 isn't the dry, wet/dry system in your -- or the
12 dry cooling system for visual impacts most
13 appropriate?

14 MR. WALTERS: If you needed to abate the
15 plume, like I said, there are at least three
16 technologies you could use and it would depend on
17 how you wanted to design the system. Or what
18 level of abatement you would need. I mean, if you
19 were in a situation where you had a local
20 regulation that said no plume, you'd want to go to
21 an air cooled condenser. In this setting, we
22 don't have any local or state regulations that
23 deal with plume frequency. So it's our CEQA
24 analysis that Dale performs in terms of
25 significance.

1 MS. PEASHA: Okay, considering using
2 what you have now, or what you have applying to
3 use, taking into consideration the quarterly wind
4 reports from sub-section 8 in the air quality, the
5 winds from the northwest, would those, would those
6 winds not blow that right over your entry and
7 right over East Clay Road.

8 MS. HOLMES: Can you, can you, again,
9 what are you referring to in the air quality
10 section?

11 MS. PEASHA: The wind, the wind figures
12 in the --

13 MS. HOLMES: In the AFC?

14 MS. PEASHA: Yes.

15 MS. HOLMES: And where in the AFC?

16 MR. WALTERS: Page?

17 MS. HOLMES: Mr. Walters says he doesn't
18 need it in front of him to answer the question.

19 MS. PEASHA: Okay.

20 MR. WALTERS: The one thing actually I
21 don't know, is exactly where the entrance is,
22 because it's not actually my entrance.

23 MS. PEASHA: Okay.

24 MR. WALTERS: To say that when there is
25 plume, when the wind direction is from the

1 northwest or west northwest and if the plume is
2 large enough, it will cross over the road that's
3 south of the site. Our modeling didn't show a lot
4 of ground level fogging in that direction. We
5 actually showed ground level fogging in the
6 opposite direction.

7 MS. PEASHA: Well, from my, from my
8 visual impact, I can, those towers disappear at
9 night, the Twin Towers. So the visual impact of
10 these plumes when there's westerly northwest winds
11 could be just as significant to the entrances of
12 your plant. If in fact they were of -- through
13 those -- uh -- that quarterly time when they're
14 the most significant.

15 MR. WALTERS: Again, I don't understand
16 how that would impact the entrance to the plant.
17 Since the plumes

18 MS. PEASHA: Well because they're going
19 to be -- because of deliveries, transportation and
20 all, that's what I'm getting at. Won't there be a
21 significant impact on the visual or the -- do you
22 understand, Mr. Shean where I'm coming --

23 HEARING OFFICER SHEAN: Yes and I think
24 he answered your question. In terms of driver
25 visibility on Clay East Road, if I understand his

1 testimony, and just double check this. Your
2 testimony was that your modeling did not indicate
3 that there would essentially be a ground hugging
4 effect of the plume that would interfere with
5 driver safety for either employees or deliveries
6 to the entrance of the proposed facility off of
7 Clay East Road, is that what you testified?

8 MR. WALTERS: Yeah, that, that's
9 correct? Essentially the plumes will be elevated
10 and will be above the roads.

11 MS. PEASHA: Are you familiar with the
12 undulations on that road and all, and you still
13 believe that it will not impact that road at all?

14 MR. WALTERS: I'm not familiar with all
15 of the undulations of the road. But essentially
16 as the topography goes up, the plume will go up
17 with the topography for the most part. Because
18 there will be a boundary layer of air underneath
19 that will keep forcing it up.

20 MS. PEASHA: There will be a boundary
21 layer of air forcing up that even with the winds
22 blowing from the northwest.

23 MR. WALTERS: What I'm saying is if you
24 have plume, and it's reaching an area of
25 topography and that plume is elevated and there is

1 an area that is below the plume, the wind
2 essentially is going to force everything, up and
3 over the mountain, so that boundary layer will
4 still cause the plume to stay elevated above the
5 elevated terrain. I'd only expect if we had
6 really severe elevated terrain you could have an
7 actual impact.

8 MS. PEASHA: Wouldn't that depend on how
9 far the towers are from the road?

10 MR. WALTERS: Actually it would depend
11 on the difference in contours and how close those
12 differences in contours were.

13 MS. PEASHA: And the difference between
14 where the towers sit and where -- the distance of
15 road. I mean essentially they are going to come
16 down.

17 HEARING OFFICER SHEAN: If you have a
18 question in there, first of all he testified that
19 this fundamentally is either terrain following or,
20 I think it should be asked, given the enhanced
21 thermal character of the condensate that's part of
22 the plume, is rising anyway. I mean there's the
23 velocity out of the cooling tower and since it's
24 heated, they tend to rise. Is that correct?

25 MR. WALTERS: Yeah, the plume is --

1 HEARING OFFICER SHEAN: So in terms of
2 ground following, which was your question, which I
3 think your talking about impairing driver safety
4 on Clay East Road, is that the idea? And do you
5 have a concept in mind and you know approximately
6 where Clay East Road is? Is that correct? Do you
7 see a circumstance in which the plume could impair
8 driver safety by being at or near ground level
9 along Clay East Road within the model?

10 MR. WALTERS: -- well I could tell you,
11 the model doesn't predict it. Uh, in terms of
12 general experience, sometimes plumes, at the very
13 far tail end, particularly in extremely cold
14 weather conditions, that condensation will
15 actually create a situation where the plume is a
16 little denser than the ambient air as it cools and
17 gets, actually gets pretty small towards the end.

18 And it will occasionally dip down and
19 there will be a small tendrill that will come down
20 and get close to the ground. But it's not a very
21 significant plume fogging as opposed to when we
22 have a high wind condition and we have down wash.
23 And you would have a wide and rather opaque type
24 of ground fogging event.

25 //

1 HEARING OFFICER SHEAN: Okay.

2 MS. PEASHA: So it will be -- so it be
3 an opaque ground fogging effect with those wind
4 conditions?

5 MR. WALTERS: No, I said actually the
6 reverse.

7 MS. PEASHA: Oh you did?

8 MR. WALTERS: Uh, I guess from
9 experience I can say I've driven pass the Carson
10 Refinery, oh several thousands of times and I've
11 never seen a plume actually hit the 405. I've
12 seen it go over the 405. Many times I've seen it
13 go over the 405 and last so far I couldn't see the
14 end of it during the night. But I've never seen
15 it hit the 405.

16 HEARING OFFICER SHEAN: Okay, we're at
17 noon. We have a request for public speaking. And
18 why don't we make, I guess that chair and that
19 microphone available to Ms. French. And we have
20 another speaker as well.

21 MS. FRENCH: Good morning, or afternoon.
22 My name is Karen French and I am a home and land
23 owner in Harold. I live on the south side of Twin
24 Cities Road, less than two miles due west from the
25 proposed project on a hillside that is comparable

1 in elevation to the project. Thus, I have a
2 direct and clear view of the existing Rancho Seco
3 site from ground level to the top of the towers
4 and also of the ground level of the proposed site.

5 There are at least five other home
6 owners with comparable vistas. None of the KOPs
7 precisely represent this area or are from this
8 particular direction. Previously I've submitted
9 written communication on the project and public
10 comment. And I would like to thank you for
11 holding the hearing in Harold and I would also l
12 like to thank the Public Advisors Office for their
13 assistance.

14 I want to make it clear from the start
15 that I'm not coming forward in opposition to the
16 construction of this plant. My sole mission is to
17 do my best to ensure that SMUD is a good neighbor
18 and does everything reasonably possible to
19 mitigate the impacts on this plant on me, my
20 neighbors and the many valuable resources of this
21 community.

22 I come before you today to comment
23 specifically on the issue of visual resources of
24 the proposed power plant. I've reviewed the FSA
25 for this project as well as the visual resources

1 section of the FSA's on the Russell City and
2 Metcalf Projects. I would note that in both of
3 those projects, the visual impacts of the plant
4 were authored by one individual and incorporated
5 plume impacts.

6 There are three points that I wish to
7 make. First, Commissioner, it strikes me as odd
8 that in this case there are two separate analyses
9 for the visual impacts from the power plant by two
10 different authors, especially since one is a
11 manager and one is a technical person. Why is
12 that? Is there something going on here that the
13 CEC Staff is trying to cover up?

14 If I were to ask Mr. Clayton what he
15 thinks about the significance of the cooling tower
16 plumes, I wonder what he would think? But we'll
17 never know since Mr. Clayton, the technical
18 expert, didn't sponsor the testimony.

19 Second, this whole topic is extremely
20 subjective. While I do not question Mr. Edwards
21 competence as a manager, he does not have a
22 technical background in this field. He is no more
23 an expert in determining significance than you or
24 me or Kathy Peasha, or anyone else.

25 I along with the other residents of this

1 area are the ones who are going to have to live
2 with seeing these ugly industrial plumes. I came
3 out to live in the rural countryside to get away
4 from the blight of industry. Despite the ugliness
5 of Rancho Seco, the rest of the area is not an
6 industrial part, but a beautiful rural landscape.
7 The ugliness of Rancho Seco should not be a
8 justification to further degrade the vistas in
9 this area with another ugly power plant.

10 Mr. Edwards is not the one who has to
11 live seeing these plumes all the time. We are. I
12 believe that Mr. Edwards is wrong in his
13 conclusion that these visual impacts from these
14 plumes are not significant. You've heard
15 testimony today that plumes as high as 2000 or
16 3000-feet could occur. And that for 293 hours
17 there will be significant plumes, in terms of
18 size. That they will be larger than the existing
19 Rancho Seco towers.

20 You've also heard that these are likely
21 to be in the early morning hours. I can tell you
22 that those of us who live in a rural community are
23 generally up before dawn doing our chores, we're
24 outside and we will see these. So it's not
25 insignificant that they will be in the early

1 morning hours.

2 And finally, there is a way this visual
3 blight of these plumes can be virtually
4 eliminated. And the CEC Staff even mentions it in
5 numerous places. First, Mr. Edwards says that
6 even if he does not recommend mitigation, he
7 mentions in his own testimony that use of wet/dry
8 plume abatement technology could be applied that
9 would virtually eliminate those plumes.

10 On top of Mr. Edwards saying that there
11 are means of eliminating these plumes. Then,
12 there is Mr. Walters analysis in appendix B. Mr.
13 Walters elaborates in his analysis that plume
14 abated towers would dramatically reduce the visual
15 impacts from these plumes.

16 Commissioner, it's almost like the CEC
17 Staff is dropping hints, that you, the
18 Commissioners could require the application of
19 plume abatement, but we, the Staff, don't or won't
20 or can't recommend it. As a member of the public
21 who would have to see this project for many years
22 to come.

23 I urge you to require that SMUD apply
24 plume abatement technology to their proposed power
25 plant, so that our beautiful views, out here in

1 the country are not destroyed. Thank you for
2 allowing me the opportunity to comment.

3 PRESIDING MEMBER PERNELL: Thank you.
4 The Committee does appreciate public comment,
5 especially those that are directly effected by the
6 project. So I do want to thank you for coming in.

7 MS. FRENCH: Thank you. I would also
8 like to submit written testimony, but it's not
9 really in written form yet. If I could submit
10 that next week?

11 HEARING OFFICER SHEAN: Is that
12 what-- the remarks you've just made?

13 MS. FRENCH: Yes, the remarks I just
14 made.

15 HEARING OFFICER SHEAN: Well, just note
16 if you'd like to do that, that's fine. We are
17 transcribing everything that you have said. So we
18 have it one way or the other.

19 MR. FRENCH: But it will be on the
20 record so it's not necessary. All right.

21 HEARING OFFICER SHEAN: Thank you Ms.
22 French. All right, we have Virginia Colla, who is
23 also a member of the public.

24 MS. COLLA: Good morning.

25 HEARING OFFICER SHEAN: Good morning and

1 welcome.

2 MS. COLLA: Thank you. I'm Virginia
3 Colla, one of the first things, I live right near
4 the Cogen Plant. I live within two and half three
5 miles in Sacramento. I was put out on disability
6 quite a few years ago, so I had to be busy. So I
7 am on the Franklin Redevelopment Area Committee
8 for Franklin Boulevard, which we've done a number
9 of beautiful things. I mean, new facade's, the
10 whole bit.

11 Also, we've been very active with -- I
12 have been to the plant there. I have been
13 very -- we've always felt very good because Mr.
14 Nelson would come anytime -- I wasn't really
15 involved as per say, but three ladies were on the
16 Committee to ask questions in the very beginning
17 when we had our plant.

18 HEARING OFFICER SHEAN: Now when you're
19 referring to our plant, is that the Campbell Soup?

20 MS. COLA: That's the one on 47th
21 Avenue, yeah, Campbell Soup. And anyhow, they
22 really went above and beyond giving answers. I
23 mean, I didn't have the expertise, but we did have
24 somebody on our Committee who does have some, you
25 know, teeth in it, but anyhow, the fact is that

1 we've not had any problems. I've been in the
2 plant. I've seen it. I've walked, you know,
3 through it and didn't feel like anybody was hiding
4 anything or anything.

5 And also, as far as I'm, I've walked
6 over 4,000 miles, which is no big thing, from -- I
7 go from my house past that, down to the Florin
8 Road. And honest, I was just listening to this
9 plume, and I don't remember looking up at it much
10 anymore, or even noticing when it does go off.
11 Because it's just part of the -- what happens, you
12 know in our area.

13 Now, whether that's right or wrong, but
14 we've been real happy. There's been times when
15 we've had a question and Mr. Nelson has come to
16 our PAC, RAC meet, well it was PAC, we didn't have
17 any money, but now we got a little money, so we're
18 RAC.

19 (Laughter.)

20 MS. COLLA: Well, true. Anyhow, we
21 talked about it for five years. But anyhow, I
22 really think that they need it. And I know, I've
23 lived in the county had places and you know, but
24 there's so many people and so many houses, and so
25 many things that we've got to have something and

1 that looks like a real place that would be out of
2 peoples way. And I think if we're real busy, we
3 don't have to watch the cloud. But that's only my
4 opinion. So that's it.

5 HEARING OFFICER SHEAN: All right, thank
6 you Ms. Colla.

7 PRESIDING MEMBER PERNELL: Ma'am, who is
8 Mr. Nelson, who does he represent?

9 HEARING OFFICER SHEAN: SMUD.

10 PRESIDING MEMBER PERNELL: Oh, that's
11 Bob.

12 (Laughter)

13 PRESIDING MEMBER PERNELL: Thank you,
14 and again, thank you for coming and testifying
15 before the committee.

16 HEARING OFFICER SHEAN: All right, we'll
17 take our lunch break now and I think as we did
18 yesterday, give ourselves about three quarters of
19 an hour, which means returning at about ten
20 minutes to one.

21 We have a number of topics to cover and
22 maybe the people who anticipate doing that can
23 think in terms of how we can tighten this up time
24 wise.

25 MS. HOLMES: I have a few re-direct

1 questions as well.

2 HEARING OFFICER SHEAN: Okay, but
3 they're not going to happen now.

4 MS. HOLMES: I understand that.

5 HEARING OFFICER SHEAN: Okay.

6 (Thereupon at 12:10 p.m. a lunch break
7 was taken.)

8 HEARING OFFICER SHEAN: It is 1 O'Clock.
9 Let's go back on the record and wrap up, or begin
10 to wrap up our visual resources cross-examination
11 and redirect. Ms. Peasha do you have anything
12 further?

13 CROSS-EXAMINATION CONTINUED

14 MS. PEASHA: Yes, I just have one more
15 further question regarding the plumes. The
16 night -- plumes at night, will they obstruct
17 celestial observation since that's where the
18 observations rise from the east, in your view?

19 MR. EDWARDS: It is highly dependent on
20 the direction you're actually looking. And I,
21 from what I am aware, I believe your property is
22 pretty much right at KOP2.

23 MS. PEASHA: That is correct Sir.

24 MR. EDWARDS: The information that I
25 have that's been generated from the model that

1 Will has prepared indicates that predominantly,
2 the plumes at night are going to be traveling
3 toward the southeast. And I just don't know where
4 the celestial bodies or planets, whatever it is
5 that you may be looking at are located at any
6 particular point in time.

7 MS. PEASHA: They are -- that's the
8 pattern they follow is east to south, you know.
9 They are very consistent.

10 HEARING OFFICER SHEAN: Okay. Maybe we
11 can stipulates the stars and planets are in the
12 sky, if you want to look at them --

13 MS. PEASHA: Which is my --

14 HEARING OFFICER SHEAN: -- for her,
15 you're going to be looking basically eastward,
16 either northeastward to southeastward.

17 MS. PEASHA: -- that's right.

18 HEARING OFFICER SHEAN: Is the plume
19 that you've modeled going to obstruct the sky and
20 therefore at night, or at least significantly in
21 the sky?

22 MR. EDWARDS: Well, I'd have to ask Will
23 whether -- I don't have any of the dimension
24 information at this time for night time plumes. I
25 know that they're going to be, the frequency is

1 pretty high. But the -- where they are exactly in
2 the sky elevation wise and in length, I'm not sure
3 whether, you know, he could speak to that, whether
4 it's in his analysis, I'm not that clear that it
5 is.

6 But the other point that I would make
7 having been out to the location near Ms. Peasha's
8 house in the last week, and looking out to the
9 east at the sky, I don't know if this was typical
10 of most nights, it was a nice clear evening.

11 And it was approximately eight O'Clock
12 in the evening. When I looked out at the east
13 through the mountain range and to the sky in that
14 direction. From the top of the mountain range, up
15 about 20 degrees in the sky, I couldn't see any
16 starts. It was pretty dark and then the stars
17 begin at a higher point in the sky.

18 Again, I say that that was my experience
19 or my observation at that particular time and I
20 don't know whether that's typical or not. But
21 based on that, if that were the pattern, and the
22 plumes very likely would be in a lot of cases, if
23 they're not vertical, if they were laying over and
24 going southward, they have a potential at least of
25 being below the horizon of where the star

1 viewability begins.

2 MS. PEASHA: Do not the sun and planets
3 and the moon rise from the horizon?

4 MR. EDWARDS: On the east, yes.

5 MS. PEASHA: On the east, yes.

6 MR. EDWARDS: Yes.

7 MS. PEASHA: So I'll tell you, the
8 optimum time of the viewing celestial planets is
9 October through March. And they rise directly --
10 where you have potentially set up your towers and
11 plumes.

12 MS. HOLMES: Is that a, is there a
13 question?

14 HEARING OFFICER SHEAN: It's not, but--

15 MS. PEASHA: That's my personal and my
16 expert opinion because I do this all the -- I do
17 it every -- I do it all the time.

18 HEARING OFFICER SHEAN: Well he said, at
19 least his answer is by his observation, the plume
20 will be under the portion of the stars that you
21 observe at or near the horizon.

22 MS. PEASHA: They will be? If they are
23 at --

24 HEARING OFFICER SHEAN: That's what he
25 said. Do you want to?

1 MR. EDWARDS: If Will can add anything
2 to that?

3 MR. WALTERS: I think we can say that
4 they'll be time when there will be some
5 obscuration along the horizon from KOP2. Much the
6 way you can see the fact that the plume in the
7 simulation would have some very low level
8 obscuration above the hills, but it's only a very
9 small slice of the total sky.

10 So as the planets, or any celestial
11 object you would want to look at would be in a
12 different portion of the sky. You could see it.
13 And depending on what your looking at, it's going
14 to be in different parts of the sky. Or typically
15 in different parts of the sky depending on the
16 time of year.

17 MS. PEASHA: I have no further
18 questions.

19 HEARING OFFICER SHEAN: Okay. Did you
20 have any?

21 MS. HOLMES: Questions, no, no
22 questions.

23 HEARING OFFICER SHEAN: The cross? Do
24 you have some redirect? Or, I'm sorry, does the
25 committee have any questions?

1 PRESIDING MEMBER PERNELL: No.

2 HEARING OFFICER SHEAN: All right,
3 redirect?

4 Redirect Examination

5 MS. HOLMES: Yeah, just a few questions.

6 Mr. Edwards, how long have you been reviewing
7 visual resource analyses?

8 MR. EDWARDS: For about four and one
9 half years.

10 MS. HOLMES: Do you have a sense of how
11 many analyses, specifically that you have
12 reviewed?

13 MR. EDWARDS: Well, over 100.

14 MS. HOLMES: Thank you. I don't know
15 who to -- I believe it was Mr. Walters who was
16 answering questions from the Committee about
17 hybrid cooling and plume abatement systems. Is it
18 fair to say that a common way to design a plume
19 abatement system is to use a hybrid cooling tower?

20 MR. WALTERS: Uh, yeah, that's one of
21 the potential ways.

22 MS. HOLMES: And would it be fair to say
23 that typically in those kinds of systems, what you
24 have is a system that's predominantly wet cooling
25 and then there is a small dry component that's

1 used specifically to reduce visible plumes?

2 MR. WALTERS: Yeah, the primary purpose
3 of the wet/dry is generally for plume reduction.
4 And could be essentially anywhere from maybe 5 up
5 to maybe 20 percent, particularly in these
6 latitudes and in a colder region, you might have a
7 little bit more of a dry section.

8 MS. HOLMES: And that's different from
9 the types of hybrid systems that might be used for
10 water conservation purposes?

11 MR. WALTERS: Yeah, there are kind of
12 different ways of thinking of hybrid's, number
13 one, the wet/dry system is kind of a hybrid all in
14 one. It's all together. Another way that you can
15 design a hybrid is actually having, essentially
16 two separate systems.

17 One of the things that was evaluated in
18 the cooling alternatives for Morrow Bay for
19 example, they looked at some cooling tower, some
20 conventional wet cooling tower and some air cooled
21 condenser as being one of the alternatives. The
22 air cooled condenser taking the most of the load
23 and then when they were going to peak, that
24 additional load would go over to the cooling
25 towers. The cooling towers would, perhaps not

1 operate all the time and operate with a lot more
2 variability than the air cooled condensers would.

3 So, then in that case, since you're
4 taking most of the heat rejection in an air cooled
5 condenser, you reduce your water load, or water
6 usage quite a bit.

7 MS. HOLMES: But the plume abatement
8 systems that have been approved for use in CEC
9 licensed plants, do those tend to be the hybrid
10 wet/dry kinds of systems that are predominantly
11 wet/cooling with a small dry fraction?

12 MR. WALTERS: Yes they have been.

13 MS. HOLMES: Thank you. We had quite a
14 few, quite a bit of discussion about the size of
15 the plumes and I'm going to hope that the
16 questions I ask will clarify rather than further
17 obfuscate the issue. My understanding, Mr.
18 Edwards is that there is approximately, based on
19 the model results, 293 hours of plumes, is that
20 correct?

21 MR. EDWARDS: Yes that's true.

22 MS. HOLMES: And when we refer to a
23 plume, the tenth percentile plume that's
24 approximately 380-feet tall, that's not the plume
25 that viewers would necessarily be seeing during

1 those 293 hours, is it?

2 MR. EDWARDS: That's true.

3 MS. HOLMES: In fact, for a good portion
4 of that time, the plume would be smaller than
5 384-feet tall, is that correct?

6 MR. EDWARDS: That's true.

7 MS. HOLMES: And there were some
8 questions from Ms. Peasha in which she referred to
9 I believe it was either 60 or 80 days that she
10 would see a plume, do you recollect that
11 discussion?

12 MR. EDWARDS: When you answered yes to
13 the questions about the number of days that a
14 plume would be seen, were you meaning to imply
15 that the plume would be visible all day?

16 MS. HOLMES: No.

17 MR. EDWARDS: Do you have a sense of, on
18 how many days you would be likely to see a plume
19 for more than a couple of hours?

20 MR. EDWARDS: There is a Table in the
21 analysis which talks about that.

22 MS. HOLMES: Perhaps Mr. Walters also,
23 since he prepared the model results also has
24 information about that.

25 MR. EDWARDS: Well, in the visible plume

1 analysis that I authored, there is Table-4, which
2 talks about the number of days and also the total
3 number of plume hours that are going to occur
4 regarding those days. And it breaks it out into,
5 these are total plume hours, not necessarily
6 continuous plume hours.

7 So it could be a plume that starts in
8 the morning, no plume for the whole day and then
9 again at the end of the day. Or, it could be kind
10 of spotty during the day depending on weather
11 conditions that effect our analysis of the plumes.

12 But the daily plume hours there indicate
13 that 41 days with a one hour plume, and I'm not
14 going to read all of these. But there are a
15 number of different, for plume hour events of two
16 hours or three hours or four or five or more with
17 different numbers of days associated with those
18 hours of plumes.

19 MS. HOLMES: Would it be fair to
20 summarize Table-4 by saying that in the majority
21 of days in which there are plumes, they would last
22 two hours or fewer?

23 MR. EDWARDS: Yeah it looks like --
24 well, if you count the times where there are no
25 plumes and the one to two hour plumes, that's 74

1 percent of the time.

2 MS. HOLMES: Thank you and --

3 MR. EDWARDS: Or 74 percent of the days,
4 I should say.

5 MS. HOLMES: -- Mr. walters, do you know
6 how often you would likely to have, based on your
7 modeling results a plume that continued
8 essentially for an entire day.

9 MR. WALTERS: Well, in an entire day,
10 where an entire day has clear hours, since we're
11 talking about clear hour plumes.

12 MS. HOLMES: Yes I am.

13 MR. WALTERS: Essentially we're talking
14 about plumes that would essentially last, like,
15 ten hours or so. And we would have plumes that
16 will last about ten hours or so and we determined
17 that they would last that long about one time a
18 year, one day.

19 MS. HOLMES: Thank you. Mr. Clayton,
20 I'd like to ask you a question about visible
21 plumes, since there was a discussion earlier in
22 public comment about why you did not prepare a
23 plumes analysis. Do you know what the results of
24 an analysis would be using the methodology that
25 you used in your visual resources testimony

1 applied to the results of Mr. Walters modeling
2 efforts?

3 MR. CLAYTON: I do not know.

4 MS. HOLMES: Thank you.

5 MS. HAYDON: I believe those are all my
6 redirect questions.

7 HEARING OFFICER SHEAN: Okay, any
8 re-cross? All right, we're done with visual
9 resources. We've had a request by the Applicant
10 based upon the availability of a noise witness, to
11 advance noise over traffic and transportation.

12 Now, the hearing order shows that there
13 will be -- the Staff witness on noise and I
14 notice, Ms. Peasha, your son is no longer here,
15 and he was your scheduled witness on noise.

16 MS. PEASHA: Yes that's correct.

17 HEARING OFFICER SHEAN: Why don't we do
18 this. Let's have the SMUD bring up it's noise
19 people and the Staff as well, we'll give everybody
20 sworn in and then go from there.

21 MR. COHN: All right, Ms. Jimenez-Price
22 will be handling the noise issue.

23 MS. JIMENEZ-PRICE: Good morning. Mr.
24 Bastasch missed the swearing in this morning so
25 will have to be sworn in at this time.

1 HEARING OFFICER SHEAN: All right.

2 MS. JIMENEZ-PRICE: And Colin will be
3 recurring as a witness.

4 HEARING OFFICER SHEAN: Pardon me?

5 MS. JIMENEZ-PRICE: Colin Taylor will be
6 recurring as a witness.

7 HEARING OFFICER SHEAN: All right.

8 Whereupon,

9 MARK BASTASCH

10 was called as a witness herein, and after having
11 been duly sworn, were examined and testified as
12 follows:

13 DIRECT EXAMINATION

14 MS. JIMENEZ-PRICE: Mr. Bastasch,
15 please state your name and spell it for the
16 record.

17 MR. BASTASCH: Mark Bastasch.

18 MS. JIMENEZ-PRICE: What is your job
19 title?

20 MR. BASTASCH: I am a project engineer
21 with CH2MHILL.

22 MS. JIMENEZ-PRICE: Please describe your
23 experience and qualifications.

24 MR. BASTASCH: I'm a Registered
25 Professional Engineer. I'm a member of the

1 Institute of Noise Control Engineering and I have
2 over six years of experience in the noise arena.
3 I've prepared numerous CEC filings, most of which
4 have included direct noise measurements by myself.

5 MS. JIMENEZ-PRICE: Did you prepare
6 testimony for these hearings?

7 MR. BASTASCH: I did.

8 MS. JIMENEZ-PRICE: That testimony
9 includes reference, includes several documents.
10 Were these documents prepared by you or under your
11 direction?

12 MR. BASTASCH: Yes.

13 MS. JIMENEZ-PRICE: Do you have any
14 changes or additions to your testimony?

15 MR. BASTASCH: Some brief changes.
16 After the workshop public comment and negotiations
17 with staff, there were changes made to the
18 conditions of certification, which have been
19 submitted by Staff.

20 MS. JIMENEZ-PRICE: Does the testimony
21 as revised reflect your best and professional
22 judgement?

23 MR. BASTASCH: Yes.

24 MS. JIMENEZ-PRICE: Are the facts
25 contained in your testimony true and correct to

1 the best of your knowledge?

2 MR. BASTASCH: They are.

3 MS. JIMENEZ-PRICE: Do you adopt the
4 testimony under oath today?

5 MR. BASTASCH: I do.

6 MS. JIMENEZ-PRICE: Have you had an
7 opportunity to review the written testimony filed
8 by the intervenor Peasha?

9 MR. BASTASCH: I have.

10 MS. JIMENEZ-PRICE: Please summarize
11 your testimony with regards to the issues raised
12 by Mr. Peasha.

13 HEARING OFFICER SHEAN: Let's first do
14 our little housekeeping thing. Is there objection
15 to qualifying the witness to testify as an expert?
16 Hearing none, he is qualified. Is there objection
17 to the admission into evidence of the testimony
18 offered by the witness? Hearing none, that is
19 admitted. All right, now if you want to proceed
20 with that.

21 MS. JIMENEZ-PRICE: Please summarize
22 your testimony with regards to the issues raised
23 by Dustin Peasha.

24 MR. BASTASCH: Thank you. Dustin Peasha
25 claimed to have heard agricultural activities

1 during the monitoring period. And I have no doubt
2 that Mr. Peasha heard and saw agricultural
3 activities during the day and into the evening.
4 But it should be noted that Staff's analysis is
5 based on the noise levels during the quietest four
6 hours of the night. And also utilized the L90
7 Statistic. The L90 statistic filters out
8 intermittent noise and only reflects the lowest
9 ten percent of the time measured.

10 As stated in my response to Kathy Peasha
11 data request set two, between the hours of 1:30
12 a.m. and 2:30 a.m. during my observations, I saw
13 lights in the distant field, but I heard nothing.
14 The measurement results were consistent with those
15 conducted previously.

16 I coordinated with the vineyard owner
17 and conducted the measurements during a time when
18 they were not planning any operations during -- on
19 the south side of the vineyard during the
20 measurement period. I coordinated with Ms. Peasha
21 and had her turn off her heat pump and her pool
22 pump, so that those sources would not effect the
23 measurement period.

24 Mr. Buntin from the Staff's consultant
25 met with Ms. Peasha after the first night of the

1 measurements and confirmed that the monitoring
2 equipment was set in an appropriate location and
3 no concerns were raised at that point in time.

4 HEARING OFFICER SHEAN: Why don't we get
5 the Staff witness on as well.

6 MS. HOLMES: I didn't realize Staff and
7 SMUD were going to be

8 HEARING OFFICER SHEAN: Well I have an
9 idea that I want to introduce to both of you.

10 MS. HOLMES: That's fine, that's fine.
11 Okay.

12 HEARING OFFICER SHEAN: And so we'll
13 have everybody sworn in.

14 DIRECT EXAMINATION

15 MS. HOLMES: Mr. Buntin, did you prepare
16 the noise section of the FSA?

17 MR. BUNTIN: I did.

18 MS. HOLMES: And was a statement of your
19 qualifications included in that?

20 MR. BUNTIN: Yes.

21 MS. HOLMES: Did you also prepare the
22 changes to the noise conditions of certification
23 that were filed on the 12th of March?

24 MR. BUNTIN: Yes.

25 MS. HOLMES: And did you also, are you

1 also responsible for the changes that were placed
2 on the back table this morning. There is, was a
3 four-page packet. The cover page is the first
4 page of Mr. Buntin's testimony, there's a hand
5 written note on the top that indicates that there
6 were changes introduced at today's hearing on
7 pages 13, 14 and 15. Mr. Buntin, were those
8 change prepared by you or under your direction?

9 MR. BUNTIN: Yes.

10 MS. HOLMES: And with those changes, are
11 the facts contained in your testimony true and
12 correct to the best of your knowledge?

13 MR. BUNTIN: Yes.

14 MS. HOLMES: And do the opinions
15 contained in your testimony represent your best
16 professional judgement?

17 MR. BUNTIN: Yes.

18 MS. HOLMES: And at this point Mr.
19 Shean, either Mr. Buntin can summarize his
20 testimony on this issue or you can proceed
21 directly to your plan.

22 HEARING OFFICER SHEAN: Okay, let's do
23 our little dance here, which is, is there an
24 objection to the qualifications of the expert to
25 testify? Hearing none, he is qualified. Is there

1 objection to the admission into evidence of the
2 testimony and the amendments offered by the
3 witness?

4 MS. PEASHA: I object to the fact that
5 they did change -- on page 4.6.14 of his
6 additional testimony, that they claimed that the
7 adjacent caretakers mobile home, may have now the
8 measures that would in -- the future measures
9 after this resident is removed may have changed.

10 HEARING OFFICER SHEAN: Well, okay, that
11 doesn't go as to it's admissibility, so it's
12 admitted and we'll look at the issue. He can give
13 a brief and comparable summary of his testimony as
14 the Applicant has done.

15 MS. HOLMES: Mr. Buntin, why don't you
16 summarize your testimony with respect to the noise
17 measurement issues that were previously discussed.

18 MR. BUNTIN: Okay. Uh, yes, thank you.
19 Of course we reviewed the -- well, first of all
20 I'd like to say that the AFC include AFC included
21 measurements at the existing mobile home, which
22 we've labeled as site R1. And there were no
23 measurements up at Ms. Peasha's place, house.

24 Then the applicant at Ms. Peasha's
25 request conducted noise measurements across the

1 street from her house and she asked for them
2 instead to be conducted in the backyard. And so
3 we do in fact, have valid noise level data
4 collected at her location, which I think is
5 representatives of what to expect there.

6 As you hear from the applicants
7 consultant, he did in fact visit the site during
8 the night time hours. The equipment that I viewed
9 appeared to be fully functional and properly
10 located. I have no reason to believe that there
11 was anything about the noise measurement data that
12 was unusual for the area or for that type of an
13 environment.

14 And again I'd like to reiterate to
15 confirm what the Applicant said, that we look at
16 the quietest period of the night in making these
17 determinations of potential significance of the
18 power plant. And so we look at those quietest
19 hours, in this case, as I recall they are from
20 midnight to four in the morning. And we -- and on
21 top of that, we look at the quietest period of the
22 night. The quietest ten percent, what we call the
23 L90 value.

24 So we're trying to eliminate external
25 factors and look at how quiet it gets at night,

1 because that it what will change when the power
2 plant is placed in operation.

3 So if there were occasional sorts of
4 things that occur during that timeframe, they
5 would have been reflected in other metrics, rather
6 than the L90 that we use. Just again to conclude,
7 the results that were obtained at site R2 were
8 consistent with those contained down at site M1
9 and in fact consistent with what I would expect
10 for a rural residential area.

11 HEARING OFFICER SHEAN: All right. With
12 the goal of abating a lot of extensive testimony
13 on this and cross-examination and to be
14 consistent, at least in the Committee's mind with
15 prior Commission decisions with regard to noise
16 and the mitigation of noise. I would just note
17 for the record that on page 4.6-16 of the Staff's
18 Assessment, the Staff narrative includes a
19 statement that the Applicant had offered
20 additional sound attenuation at the receptors
21 where post project noise level would exceed the
22 ambient noise levels by 5 dBa or more.

23 At this point, rather than go into
24 whether or not nine or ten dBa increases given the
25 setting, would or would not be significant given

1 the relative low noise of this rural environment.

2 The Committee is interested in finding
3 out from the Applicant and the Staff, for the
4 purpose of protecting individual receptors,
5 whether or not it would be acceptable to the
6 Applicant to include a condition that would do a
7 before and after sound measurement, meaning before
8 construction begins and after power plant
9 operation at evening hours, since this is intended
10 to address disturbance of sleep. And that if at
11 any of the receptors potentially would be effected
12 if the noise level, measured noise level at that
13 point were 5 dBa or greater, that the applicant
14 would provide sound attenuation, mitigation at the
15 receptors site?

16 MS. JIMENEZ-PRICE: Uh, I'd like Mr.
17 Taylor to answer that question.

18 HEARING OFFICER SHEAN: All right.

19 MR. TAYLOR: This is Colin Taylor. We
20 would be prepared to accept a condition similar to
21 the one that we have in front of us. I think we'd
22 like to make sure that the specific words just
23 explain that we would do this if the noise was
24 directly caused by our plant. The wording here is
25 just a little open.

1 It says if residents complain of the
2 disturbance then we have to do whatever
3 mitigation. I think we would like some
4 reasonableness in there to say that if the noise
5 was from our plant, we would definitely do this.

6 HEARING OFFICER SHEAN: All right. Is
7 that ?

8 MR. TAYLOR: And we'd like this to fully
9 resolve this issue.

10 HEARING OFFICER SHEAN: Pardon me?

11 MR. TAYLOR: We'd like this to fully
12 resolve this issue.

13 HEARING OFFICER SHEAN: Yes. And would
14 Staff find such a condition acceptable to it?

15 MS. HOLMES: Yes it would.

16 HEARING OFFICER SHEAN: Why don't we, in
17 the period between now and when the Committee is
18 in the -- or while the Committee is in the throws
19 of preparing the PMPD have the Staff and the
20 Applicant work on that and find some language and
21 make sure that it's circulated. Because I think
22 what we're trying to do is to make sure that
23 potential impacts to residents in the area are as
24 fully mitigated as we can. Ms. Peasha do you
25 understand what we've just discussed?

1 MS. PEASHA: Yes I do. Yes I do Sir.

2

3 MR. GARCIA: Mr. Shean?

4 HEARING OFFICER SHEAN: Yes.

5 MR. GARCIA: By what you just read. I
6 think we probably need to include and any
7 activities that are a direct or approximate
8 attributed to the operations of the plant. So if
9 there is a noise level increase, say due to
10 vehicular traffic, that's again, attributable to
11 the plant, that would be included in the measure.

12 MR. TAYLOR: Yes, that's correct.

13 MR. GARCIA: Okay.

14 HEARING OFFICER SHEAN: And does that
15 sound, for this topic matter as if that's going --

16 MS. PEASHA: That would be included in
17 the traffic as, as, ambient noise?

18 HEARING OFFICER SHEAN: No, as project
19 noise.

20 MS. PEASHA: Okay as -- okay.

21 HEARING OFFICER SHEAN: Does that seem
22 to address your issues with noise sufficiently
23 that we could move off this topic?

24 MS. PEASHA: Yes, certainly.

25 HEARING OFFICER SHEAN: All right.

1 Thank you very much, then we're all done with
2 that.

3 PRESIDING MEMBER PERNELL: Mr. Shean,
4 who would be the designated, the person or
5 organization that will write the condition?

6 HEARING OFFICER SHEAN: The first --

7 MS. HOLMES: Staff will coordinate with
8 SMUD and present a proposal to the Committee.

9 HEARING OFFICER SHEAN: Okay. I'm aware
10 of in other proceedings we have language that's
11 already existing that probably will only have to
12 be tweaked a very small amount to get to the point
13 we want to get. All right. Thank you very much.
14 I appreciate the cooperation from the Applicant
15 and the Staff, and Ms. Peasha.

16 PRESIDING MEMBER PERNELL: And Ms.
17 Peasha.

18 MR. GARCIA: Mr. Shean?

19 HEARING OFFICER SHEAN: Yes.

20 MR. COHN: If I may, there are a number
21 of public witnesses that I believe have some time
22 constraints that would like to make some
23 statements as public comment. So we would request
24 that those who have a time constraint be allowed
25 to testify before we move on to traffic and

1 transportation.

2 HEARING OFFICER SHEAN: All right, well
3 why don't we do it on that basis. If there are
4 member of the public here who do have a time
5 constraint and need to leave after making their
6 public comment, would you please come forward and
7 we'll afford you an opportunity to do that.

8 PRESIDING MEMBER PERNELL: Perhaps we
9 can use the --

10 MS. HOLMES: This end of the table is
11 free since we have no more witnesses.

12 HEARING OFFICER SHEAN: All right, we'll
13 begin with you Sir, if you would just identify
14 yourself for the record please.

15 MR. REYNOSO: Certainly. My name is Len
16 Reid Reynoso. I am a resident over on Clay
17 Station Road here in Harold. Our family has been
18 out here for, well, since 1976. I actually moved
19 away in 1989 after the plant closed down and moved
20 back in '98. I'm a local attorney here. I help
21 with State matters for people and non-profit
22 organizations.

23 I just came today because I understand
24 there was a public hearing and people were
25 concerned about the possibility of firing up a new

1 plant out in SMUD. And just to say that I think
2 that's a great idea.

3 SMUD is in a situation where it needs to
4 have additional power to keep our rates lower than
5 PG&E and other rates. The natural gas plant that
6 was proposed, at least the plans that I've seen
7 for it, have it being one of the cleaner plants
8 that will be in production at the time from an
9 environmental standpoint.

10 I thought it was a nice move to use a
11 near and existing facility where we used to have
12 hundreds of employees out here all the time. The
13 roads can handle it. The power structure was
14 there. I thought that was a great move too.

15 Going from a nuclear reactor and being
16 near the nuclear reactor at that time, we actually
17 had one of the sirens out near our house. When it
18 first went in, they used to test it and scare the
19 cattle all the time. It was kind of funny, after
20 the first two years the cattle got used to it.

21 But going from a situation where we had
22 a nuclear reactor that was active and being used
23 to a gas facility, seems from a safety standpoint
24 a lot easier. I understand we still have nuclear
25 waste out there and what not that will be dealt

1 with at the National level at some time in the
2 future.

3 But mostly I just wanted to come and say
4 that I think the costs and the potential benefits
5 of this plant are positive for this area. I think
6 it's great that SMUD is going to have a new
7 ability to produce it's own power again. Won't
8 have to out -- buy the power. I think that's
9 great. I think the ability to use the existing
10 power structure that SMUD already had is a good
11 move. I don't have concerns over the
12 transportation of some of the minor chemicals that
13 are being talked about.

14 We live in an ag community. There is
15 chemicals for fertilizer and whatnot that are used
16 all the time for spraying pesticides and
17 herbicides out that are more dangerous than the
18 chemicals being proposed by SMUD in their process,
19 as I understand it at least. So those type of
20 concerns I don't share.

21 It will be interesting to have the plant
22 there again and have it up and running and have
23 another viable option for SMUD. And again, I'd
24 just like to reiterate that I think it's a great
25 move.

1 HEARING OFFICER SHEAN: Thank you Sir.

2 PRESIDING MEMBER PERNELL: Thank you for
3 coming before the Committee.

4 Good afternoon, my name is Carol
5 Backert. And I am the Chairman for the Southeast
6 Area Community Planning Advisory Council. And I
7 think you have been distributed some comments that
8 we wanted to read into the record today and
9 because my voice is really bad, I'm going to get
10 Tim read them in, but if you have any questions of
11 us, please feel free to ask us after that.

12 MR. REINART: Good afternoon. The
13 Southeast Area Community Planning Advisory Council
14 is made up of residents around the proposed
15 project. We're appointed by the Sacramento County
16 Board of Supervisors to encourage citizen
17 participation in the planning process. We provide
18 a forum for residents to voice their concerns and
19 opinions regarding land use issues and projects
20 that may effect them at our regularly scheduled
21 monthly meetings.

22 The Council is authorized to review and
23 comment upon specific planning proposals, such as
24 use permits, zoning changes, proposed new
25 developments, lot splits and variances. Our guide

1 is the Sacramento County General Plan, as well as
2 the Southeast Area Community Plan. After we make
3 our recommendations and they are just
4 recommendations, the matters go to the appropriate
5 county office.

6 The Rancho Seco site has been utilized
7 for power generation or power transfer
8 continuously for over 25 years. Although, the
9 nuclear power generation facility ceased in 1989,
10 the radioactive material is still present,
11 appropriately contained. And the cooling towers
12 remain as a visible landmark. There has been no
13 land use changes, no rezoning, no new use permits
14 or variances needed for the subject property
15 regarding the proposed plan. The land use is
16 consistent with existing policy. We are in
17 support of the natural gas fired plan proposed at
18 the Rancho Seco Facility site.

19 We are satisfied with the public
20 outreach that SMUD has promoted, both individual
21 forums, as well as having a SMUD individual
22 representative present at our regularly scheduled
23 meetings. The SMUD representative has always been
24 present, well-prepared actually and has been
25 extremely informative as well as responsive to

1 questions and concerns presented.

2 We are pleased that SMUD has made
3 alternative plans addressing local resident
4 concerns about construction traffic on Clay East
5 Road. Pursuant to voice concerns of local
6 neighbors, SMUD eliminated Clay East Road as a
7 vehicle artery, in fact, rerouting the
8 construction traffic vehicles through the regular
9 entrance at Rancho Seco and then constructing a
10 new road to the site.

11 This change will mitigate and eliminate
12 noise, traffic and not interfere with the school
13 bus routes. It is our opinion that SMUD has
14 addressed safety concerns and hazardous material
15 concerns by utilizing products that are
16 significantly less hazardous and other products
17 that are currently being used.

18 It's our understanding that SMUD will be
19 purchasing and receiving forms of chlorine and
20 ammonia that are not significantly different from
21 the commercially available household cleaning
22 products. These products will be transported
23 along State Highway 104, Twin Cities Road, if you
24 will, along with other commercial traffic.

25 Currently commercial carriers transport

1 goods to and from the foothills such as propane,
2 which is more volatile than the chemicals that
3 SMUD proposes to transport. As a result, we feel
4 there is little, if any concern that unique and
5 deadly chemicals are being transported and stored
6 at the plant facility at Rancho Seco.

7 SMUD has been a good neighbor and has a
8 proven track record regarding consideration of our
9 community. An example of this is demonstrated by
10 the recent removal of a large generator that took
11 almost three weeks to get from the Rancho Seco
12 Facility to the Port of Stockton, down the back
13 roads of the County and along Highway 88 to the
14 port of Stockton. The public outreach program as
15 well as the planning and notification of residents
16 along the path of the giant generator was well
17 executed.

18 In conclusion, the Southeast Area
19 Planning Advisory Council is satisfied that there
20 has been more than a sufficient time and
21 opportunity for public comment. The impact upon
22 the local has been appropriately addressed,
23 reviewed and mitigated.

24 It is our opinion that the project will
25 be beneficial to the community at large with the

1 generation of much needed electricity. We
2 recommend that the plant be approved and proceed
3 as planned. Thank you for the opportunity to
4 speak.

5 PRESIDING MEMBER PERNELL: Thank you.
6 The Committee certainly appreciates the Southeast
7 Area Planning Council. Let me just ask, was that
8 Committee organized by the Board of Supervisors?

9 MS. BACKERT: Yes it is. We are one of
10 15 Councils throughout Sacramento County.

11 PRESIDING MEMBER PERNELL: And is this
12 Don Nattoli's area?

13 MS. BACKERT: It's Don Nattoli's area,
14 yes Sir.

15 PRESIDING MEMBER PERNELL: Thank you.
16 Thank you for being here.

17 HEARING OFFICER SHEAN: Thank you. Are
18 there any other members of the public who wish to
19 speak at this time?

20 MR. ROSE: My name is Ruth Anne Rose and
21 I'm with the Franklin Boulevard Project Area
22 Committee and at the time our Cogen went in, I was
23 Chair for those years.

24 We have had a Cogeneration plant in my
25 backyard. I live less than a quarter of a mile

1 from it. I drive by it daily. Don't even know
2 it's there unless I look up and see the steam.

3 They have been very honest. We had
4 lot's of questions about it when it went into our
5 area. And the people, we researched it, we called
6 the air quality people. They came back with that
7 it doesn't emit any more particles, actually
8 Campbell Soup was in more wrong than anybody else
9 in the neighborhood.

10 So we've had a very, very good and nice
11 relationship with SMUDs plant. And I think if you
12 want something clean and good energy, this is the
13 route to go. Thank you very much.

14 HEARING OFFICER SHEAN: Thank you Ms.
15 Rose.

16 PRESIDING MEMBER PERNELL: Thank you
17 ma'am. The Committee appreciates you coming out
18 to this hearing.

19 MR. MAY: Hi, my name is Tom May, I live
20 at 13755 Beskeen Road. I live around the corner
21 and down the street from the project. And while I
22 have not reside here as many of the other people
23 in this room, I'm a native of California, lived in
24 the Valley for 40-years. After my years of
25 research I decided to live in Harold because it's

1 a great community and a place to raise my five
2 young grandchildren.

3 Before living close to Rancho Seco I've
4 had experience with SMUD. I was chief financial
5 officer for a corporation that owned a restaurant
6 at the intersection of Bradshaw and U.S. 50 and
7 during my contact with the SMUD employees, I found
8 them to be very professional, very conscientious
9 and friendly. I was also extremely impressed with
10 the low cost of electricity, which was thirty to
11 forty percent from the equivalent businesses that
12 I ran in Merced and Fresno County.

13 SMUD continues to be a great member of
14 the Community. I have personally seen them go to
15 great efforts at public meetings to address these
16 concerns. They have traveled the extra mile to
17 mitigate any potential problems from this project.

18 I thought I would take a minute to
19 address the traffic increase. I understand that
20 maybe 30 positions will be held out there. I
21 think this represents about a five percent
22 increase in daily traffic. But I am not sure that
23 anybody's looked into the type of driver.

24 I called my insurance agent (inaudible),
25 one of the largest independents in the Valley and

1 they told me that the number one category for
2 potential traffic problems is young teenage boys
3 with alcohol. Number two, young teenage girls
4 with alcohol. And number three, sorry mom, but
5 over 70-years-old. Anyhow, I don't think this is
6 the typical professional employee that SMUD is
7 going to hire at the site.

8 In fact, I think that when you add their
9 numbers, it would overall reduce the potential
10 risk of any kind of danger from traffic in the
11 area.

12 Finally, I would like to say to the
13 Committee it's very fortunate to have SMUD in the
14 backyard. Like many of the neighbors in the
15 community, I'm planning on going fishing tomorrow,
16 they're a neighbor that has a backyard fishing
17 pond, they've invited everybody to go to it. And
18 I think it's wonderful to have them here.

19 I think the Commission for their time
20 and I urge forward progress. Thank you.

21 PRESIDING MEMBER PERNELL: Thank you
22 Sir.

23 HEARING OFFICER SHEAN: Okay, we've got
24 a couple more blue card of the people that want to
25 speak now.

1 MR. DE ANGELO: My name is Ernest De
2 Angelo, I'm with the Franklin Boulevard Business
3 Association and SMUD is a business in our area.
4 And just the fact that I'm at a meeting on a
5 Friday afternoon should speak volumes of my high
6 regard for SMUD and their neighborly policies that
7 they've had there. Not only do they, as the
8 previous gentleman talked about, provide us with
9 good stable electricity, but they are in fact,
10 good neighbors.

11 They're a welcome part of our business
12 community. They participate, they show up and
13 they're very responsive to any questions or
14 concerns that we have. They took our entire Board
15 of Directors on a tour of their plant, their Cogen
16 plant there behind Campbell Soup.

17 And like the previous lady said, unless
18 you were looking for it, as a matter of fact, the
19 first time I drove there I darn near missed it,
20 and I knew where it was. I mean, it's very
21 unobtrusive, very quiet and not anything that is
22 anywhere a problem to the neighborhood. As a
23 matter of fact, they're a positive addition to the
24 neighborhood.

25 MS. DE ANGELO: I'm Marlene De Angelo.

1 I'm one of the coordinators for the Franklin
2 Boulevard Business Association. We talked with
3 our Board before we attended this meeting. And we
4 have 11 Board Members without exception, everyone
5 of them felt that we really needed to be here to
6 address this.

7 We have worked with SMUD for several
8 years and one of the things we found that right
9 from the top, all the way down to their janitorial
10 people, if you have a question and you have a
11 concern, they'll look into it immediately.

12 I can't say that about any other utility
13 business that I have had any function with. But
14 if people are concerned about -- it doesn't even
15 matter, if it's the steam, if it's parking, if
16 it's whatever it is. They look into it and they
17 resolve it and they get back to you.

18 And I think that that's a wonderful, you
19 know, something, at least you have something that
20 you can deal with when you have a community and a
21 company like that. They were very helpful to us
22 in getting Campbell Soup to work with us to put on
23 a festival. And we'd tried several ways to make
24 that connection and had not been able to.

25 And that's kind of outside of their

1 realm. But they took the extra step. And so, we
2 speak very highly of them. Thank you.

3 PRESIDING MEMBER PERNELL: Thank you.
4 Would you say that your Board is in favor of this
5 project?

6 MR. DE ANGELO: Absolutely.

7 MS. DE ANGELO: Yes.

8 MR. DE ANGELO: Our Board is 11 members,
9 but we represent some 550 members of business
10 members that are in our business improvement
11 district.

12 MS. DE ANGELO: All live and work right
13 close around the Cogen plant right there in
14 Sacramento.

15 PRESIDING MEMBER PERNELL: Okay, well
16 thank you for being here.

17 MS. DE ANGELO: Thank you.

18 MR. DE ANGELO: We got lost, but we're
19 here.

20 (Laughter)

21 HEARING OFFICER SHEAN: All right,
22 anybody else?

23 MS. MOORE: I'm a little nervous talking
24 into this thing, so. My name is Diane Moore and
25 I'm going to be testifying a little bit later, but

1 as a resident here, I just had a few thoughts or
2 concerns I wanted to express that might not come
3 up in my testimony.

4 I live about three and a half miles as
5 the crow flies from the plant. I've been here for
6 16 years. So I was here when it was running as a
7 nuclear plant also. And you guys have seen my
8 statement of qualifications. I believe it has a
9 very brief summary of my resume attached to it.

10 But I've been working as a biologist, as
11 a specialist in wetland and endangered species for
12 the better part of 15 years now. And have worked
13 on a lot of environmental review for development
14 projects, ski resorts, utilities, public works
15 projects, some energy project, a lot of different
16 projects.

17 And I think that the -- it's great to
18 say that SMUD is a good neighbor and had done nice
19 things and had a nice park and is available to
20 answer questions to the concerned neighbors, and
21 you know, has been professional throughout this
22 process. But I think that the heart of
23 environmental review that I've learned in the last
24 15 years is conducting an environmental review and
25 that's not just having meetings and taking

1 comments.

2 It's doing the background study and
3 looking at the alternatives. It's collecting the
4 information to make meaningful and logical and the
5 best decisions and it involves looking at fully
6 documenting what resources are out there. Looking
7 at ways to minimize those impacts. Looking at
8 project alternatives. And this project as I read
9 in the local paper yesterday, there is apparently
10 some gun to head with the time line, you know,
11 equipments been bought and this thing is going to
12 be railroaded through.

13 And I recognize having worked in this
14 field for 15 years, this project will go through
15 and I support the project. But I'm offended by
16 the inadequate environmental review for something
17 that's been studied for so many years.
18 Particularly the bifurcation. I've never even
19 heard of bifurcation in any process other than
20 this one.

21 How can you conduct an analysis that
22 comprehensively addresses what needs to be legally
23 addressed under CEQA and NEPA if your not going to
24 bring in biology or look at alternatives.
25 And, uh, it's just a very, very weird process.

1 And I think that being a good neighbor is great.

2 But doing your homework and putting forth a
3 credible and, you know true description of the
4 existing environment and doing a thorough and
5 comprehensive analysis, that's what we really need
6 to make this project be the best one that it can
7 be. And it is, I know it is a good project.

8 But I am just perplexed at why that type
9 of process would go on and I think that the
10 biology and the alternatives need to be buttoned
11 up. And the bulldozers need to be slowed down.

12 HEARING OFFICER SHEAN: Well let me
13 just, perhaps explain. Unlike a standard CEQA
14 process, which is a project being proposed either
15 an agency or designated as lead agency with staff
16 or a consultant preparing the initial
17 environmental documentation, which would be the
18 draft EIR, followed by public comment period and
19 hearings and a final EIR.

20 The Energy Commission's process
21 essentially does the following, it has the
22 application, it has the staff preparing an
23 independent analysis of the various environmental
24 and other potential community impacts as well as
25 health and safety issues. The forum that you're

1 in here now is where the information from the
2 Applicant, the information from the Staff and the
3 information from either other agencies or members
4 of the public, such as Ms. Peasha can come to the
5 Committee and be thrown in a pot and from that
6 point, the Committee composed of Commissioner
7 Pernell and Commissioner Rosenfeld will draft the
8 thing, the documentation that's the closest to the
9 draft EIR.

10 That document will necessarily include
11 the information with regard to biology and
12 alternatives. We are merely separating the
13 hearings in time, not the documentation and the
14 review. Ultimately it all will come together in
15 one document at one time so that there will be a
16 30-day public comment period on that documentation
17 similar to CEQA. And we will be responding to
18 comments made on that document. So in that sense,
19 it recaptures that element of the CEQA process.

20 MS. MOORE: So they'll be another
21 hearing like this in a couple months from now
22 where these other two areas will be finished up?

23 HEARING OFFICER SHEAN: Yeah, I can't
24 speak as to the time frame, it's going to be due
25 to other matters in terms of SMUDs preparation

1 before federal agencies. But at some point in the
2 future, the answer to that is yes. But the
3 documentation that's like the Draft EIR will not
4 be released until all of that is together.

5 MS. MOORE: So is the next, the next
6 step and I appreciate the education here. The
7 next step is there would be kind of a revised AFC
8 that would incorporate the updates?

9 HEARING OFFICER SHEAN: No. The only
10 thing that you're going to see next in terms of
11 comprehensive documentation is the Committee's
12 Presiding Member's proposed decision, which is
13 fundamentally the most equivalent to the Draft
14 EIR.

15 MS. MOORE: And that will come after the
16 remainder of the analysis?

17 HEARING OFFICER SHEAN: That's correct,
18 right. And unlike the CEQA process, this process
19 affords members of the public essentially
20 participation in the truth testing aspects of the
21 DEIR type documentation, as opposed to merely
22 commenting and hoping that your comment is heard
23 and taken into account. All right?

24 MS. MOORE: Okay. Well, then I will
25 wait and do the testimony and then if I have other

1 questions I'll come back up here.

2 HEARING OFFICER SHEAN: All right.

3 PRESIDING MEMBER PERNELL: Yes, I would
4 just add though that this is the second day of
5 hearings and we haven't covered biology yet. So,
6 that hasn't come up.

7 MS. MOORE: I understand that. And in
8 looking at the schedule, it says that it's been --
9 it's not going to be a topic covered in this set
10 of hearings.

11 HEARING OFFICER SHEAN: That's correct.

12 PRESIDING MEMBER PERNELL: In this set
13 of hearings.

14 MS. MOORE: I'm testifying on land use
15 today, but given how integrally related land use
16 and biology are, that's why I'm kind of concerned
17 about where biology fits into the picture here.

18 HEARING OFFICER SHEAN: Okay. All
19 right, are we ready to move on then to traffic and
20 transportation? Why don't we do that. And lead
21 off with the SMUD witnesses.

22 MR. COHN: All right, we actually will
23 have a panel based on what we believe the issues
24 are that intervenor has raised with respect to
25 Clay East Road.

1 So our panel will be made up of Colin
2 Taylor, who is already under oath and has
3 testimony has been admitted. Kevin Hudson,
4 likewise. Then we have Bob Nelson, who is also
5 already, has already testified and then we do have
6 one additional witness that we thought would be
7 helpful and that is Don Logan. So we might start
8 with just going ahead and circulating his resume.

9 Have you been sworn in yet?

10 MR. LOGAN: I have not been sworn in.

11 MR. COHN: Okay. Why don't we go ahead
12 and swear him in.

13 Whereupon,

14 DON LOGAN

15 was called as a witness herein and, having been
16 first duly sworn, was examined and testified as
17 follows:

18 MR. COHN: What we will do is circulate
19 his resume and then we'll -- I do have a few
20 questions first though, for Mr. Taylor and for Mr.
21 Nelson that I believe will answer some of the
22 questions that Ms. Peasha has and then of course
23 they'll be subject to cross-examination. But I
24 think it might be helpful to set the stage a
25 little bit for that.

1 And so could we go ahead, thank you, go
2 ahead and we'll circulate the resume for Mr. Logan
3 and then we'll come back to him in a few moments.

4 Let me start then with Mr. Taylor if I
5 may.

6 DIRECT EXAMINATION

7 MR. COHN: I'll skip the preliminary
8 since the Colon has already testified in this
9 proceeding and you understand your still under
10 oath?

11 MR. TAYLOR: I do.

12 MR. COHN: All right, could you please
13 state -- he's still under oath. Talk a little bit
14 closer to the microphone.

15 MR. TAYLOR: Okay, is that better? I'm
16 sorry. I was relaxing.

17 MR. COHN: Mr. Taylor could you please
18 explain in terms of the construction activities,
19 what type of activities will be going on, the type
20 of traffic that they will be generating?

21 MR. TAYLOR: Yes, Mr. Cohn. The
22 assumptions that we made regarding the traffic and
23 transportation to the project for the construction
24 phase is based on a two-year construction schedule
25 with us being on line in the summer of year '05,

1 in June.

2 I would like to mention that we did
3 start this process in September, 2001. So in
4 fact, we have been at this process quite a long
5 time despite the comments that have been made.
6 And in my opinion, we have done a very thorough
7 review of all the issues concerned with this.

8 We considered that we would have around
9 300 workers at this job site. And that's the
10 basis for what I'm going to talk about in the
11 future. The deliveries of equipment would come in
12 different ways. The large components would come
13 by rail and would be stored actually on the Rancho
14 Seco property.

15 And I'm talking about very large pieces
16 of equipment. Some of the boiler modules of which
17 there are 16 are approximately the size of three
18 grey hound buses in a line. The difference is,
19 they're 200 tons. We have turbine parts also
20 coming by rail. And they would be stored in the
21 Rancho Seco area.

22 MR. COHN: And when you use the term
23 Rancho Seco area, are you referring not just to
24 the 2400-acre general site, but specifically the
25 existing nuclear plant site?

1 MR. TAYLOR: Yes I am. Within the
2 existing fence of the nuclear power plant itself.
3 We have a rail spur that goes into that plant and
4 we would offload equipment from that rail spur
5 within the Rancho Seco property itself.

6 PRESIDING MEMBER PERNELL: So that won't
7 be specifically in the lay down area?

8 MR. TAYLOR: That is correct. We would
9 anticipate moving the large pieces of equipment on
10 a low boy, gold hoffer type of trailer and
11 bringing it to the site when we would need it.
12 Some equipment, however, would be brought to a
13 local lay down area and then what we call shaken
14 out. Sorted out to make sure we had the right
15 pieces of equipment available at the right time.

16 So it would put the larger pieces, the
17 large boiler modules would be brought in by rail,
18 stored at the site and then brought down when they
19 would be used.

20 MR. COHN: Now, originally SMUD had
21 proposed to use Clay East Road for construction.
22 The road that had previously been used for
23 construction of the existing Rancho Seco nuclear
24 plant site. Could you describe the process you
25 went through and why you decided to change the

1 construction access route to avoid use of Clay
2 East Road, or at least the portion that goes
3 through the residential areas?

4 MR. TAYLOR: Yes.

5 HEARING OFFICER SHEAN: May I interrupt
6 him, because your question stated a fact that we
7 don't otherwise have in evidence.

8 MR. COHN: Thank you, let me separate
9 that and ask that and put it this way. Are you
10 familiar with Clay East Road?

11 MR. TAYLOR: Yes I am.

12 MR. COHN: Was that road previously used
13 for construction of the Rancho Seco Nuclear Plant
14 site?

15 MR. TAYLOR: Yes it was.

16 MR. COHN: And did you initially propose
17 to use that for construction activities or
18 transportation during construction for the
19 Cosumnes Plant?

20 MR. TAYLOR: Yes we did. In fact my
21 understanding is that the road is capable of
22 handling the construction traffic had we chosen to
23 use that road.

24 MR. COHN: Okay and what's the current
25 traffic counts or what are the current traffic

1 counts on that road?

2 MR. TAYLOR: The traffic counts on that
3 road today is around 900 vehicles a day. It's
4 quite large.

5 MR. COHN: All right, now, at some point
6 did you decided that instead of using Clay East
7 Road, to use an alternate route?

8 MR. TAYLOR: Yes we did. We talked to a
9 lot of the local residents and we talked to the
10 schools and we went out and observed the traffic
11 ourselves and we came to the conclusion and agreed
12 with the residents that it really was not
13 appropriate to use Clay East Road for construction
14 traffic.

15 In fact, Kevin and I spent a fair amount
16 of time observing the school bus routes. We
17 actually saw situations where we felt that in a
18 rush of traffic, where you had many, many cars
19 following each other, that would be the wrong
20 thing to do. And at that time we looked at the
21 different alternatives that we might be able to
22 come up with. And I'd be happy to show them to
23 you on the poster board if you like, or I can
24 describe them, either way.

25 HEARING OFFICER SHEAN: Given our

1 microphone logistics, why don't we just have you
2 describe them from there.

3 MR. TAYLOR: Okay, I'll do my best to
4 explain it.

5 HEARING OFFICER SHEAN: And maybe if you
6 have a partner who can trace it, while you're
7 speaking.

8 MR. COHN: What we could do is have Mr.
9 Hudson trace --

10 MR. TAYLOR: I can use the laser.

11 MR. COHN: -- oh, okay. Well if it
12 works with the light, we can do that. We'll wait
13 for a clue from the Committee if you feel that's
14 not working.

15 HEARING OFFICER SHEAN: Sure, apparently
16 the better thing to do is to have a human player.
17 Who is at exhibit number one.

18 MR. COHN: All right. And let me state
19 for the record, Mr. Hudson's still under oath as
20 well.

21 PRESIDING MEMBER PERNELL: That includes
22 pointing.

23 HEARING OFFICER SHEAN: As is his
24 pointer finger, right.

25 MR. TAYLOR: Mr. Hudson, would you point

1 out the route that we were looking at west of
2 Rancho Seco, on the west side of it, the west side
3 of it.

4 MR. HUDSON: The west side.

5 HEARING OFFICER SHEAN: That would be
6 east and north. You want to be coming from here.

7 MR. HUDSON: From the west.

8 MR. TAYLOR: Yes. We were proposing to
9 bring the traffic along Twin Cities Road through
10 the regular entrance to the power plant, the
11 nuclear power plant and then skirt around it to
12 the west. And then join up with an existing road
13 and that incidentally was the road that was used
14 for the construction access when Clay East Road
15 was used for the nuclear power plant construction.

16 The difficulty we had with that is, that
17 we have an area there where the is fuel stored and
18 we did not want to have a problem with security in
19 that area.

20 MR. COHN: Can you be a little more
21 specific when you say fuel. What kind of fuel do
22 you mean?

23 MR. TAYLOR: That is where the used fuel
24 is stored in containers and it's an area that.

25 MR. COHN: Do you mean spent nuclear

1 fuel?

2 MR. TAYLOR: Spent nuclear fuel, yes.

3 MR. COHN: Thank you.

4 MR. TAYLOR: And we decided it was not
5 appropriate to go on the west side of the existing
6 Rancho Seco facility. We looked at going through
7 Rancho Seco, going in the gate and actually
8 working our way through the existing property.
9 And then onto the road that was the old
10 construction road.

11 And the difficulty with that is that
12 we're in a decontamination mode at the site itself
13 where we are actually taking the plant apart and
14 doing a fair amount of decontamination. So we
15 felt it was inappropriate to come through that
16 area and perhaps risk picking up some sort of
17 contamination or something at that site. So that
18 would really not be appropriate for the very large
19 numbers of people, or relatively large numbers of
20 people that we'd have coming through there.

21 So then we decided that we would
22 investigate a route to the east and we decided
23 that we could come in through the road that goes
24 to the park, Rancho Seco park, which is off to the
25 right there, to the east and we would go directly

1 south. Build a new road to the end of Clay East
2 Road and then go back westwards to the gate of the
3 new plant and then into the gate or to the lay
4 down on the left hand side of that, the south side
5 of Clay East Road.

6 So in that way, we would not use Clay
7 East Road at all in the construction phase. And
8 this appeared to make just everybody that we knew
9 at the time, except Ms. Peasha, everyone else
10 seemed to be satisfied with that approach.

11 MR. COHN: Just to clarify when you say
12 not use Clay East Road, you mean west of the lay
13 down area and plant site.

14 MR. TAYLOR: Yes. The part that was
15 actually in front of the residents.

16 MR. COHN: Please proceed. Does that
17 complete your summary then?

18 MR. TAYLOR: Yes.

19 MR. COHN: What I'd like to do then is
20 quickly run the route during operations. What we
21 just heard was the route during construction. So,
22 for operations, we have the famous Mr. Nelson.

23 HEARING OFFICER SHEAN: Bob.

24 PRESIDING MEMBER PERNELL: Bob. Forward
25 and reverse.

1 (Laughter)

2 DIRECT EXAMINATION

3 MR. COHN: Bob, and Mr. Nelson is also
4 still under oath. And let me ask you, Mr. Nelson,
5 what traffic will be generated in your opinion by
6 the project during operation?

7 MR. NELSON: If I may, Mr. Cohn, I'd
8 like to refer to a Table that I have developed and
9 you have copies of that, I believe.

10 MR. COHN: Okay, we do have copies of
11 the one page Table. It ironically as the number
12 two at the bottom, but it is only a one page
13 Table.

14 HEARING OFFICER SHEAN: Ms. Mendonca
15 will assist you.

16 MR. NELSON: For the record, this Table
17 is entitled CPP Operations Phase Traffic
18 Projection.

19 MR. COHN: If we could have that marked
20 as an exhibit for identification.

21 HEARING OFFICER SHEAN: Okay, we'll make
22 that Exhibit 3. This did not appear either in the
23 AFC or Data Request or anything else like that?
24 All right.

25 (Thereupon the above-referenced document

1 was marked as Applicants Exhibit Number
2 3 for identification.)

3 MR. NELSON: I'd also like to refer to
4 SMUD Data Response Set 1M, dated July 18, 2002.
5 And that's referenced in a footnote at the bottom
6 of the table that's in front of you now. I
7 developed this table based on my experience and
8 position as SMUD's Asset Manager for our thermal
9 plants as well as some specific experience as the
10 Operations and Maintenance Manager of the Campbell
11 Soup Cogeneration Project that you've heard
12 discussion of today.

13 This takes the Campbell Soup Operation
14 Staff scaled up to reflect the Cosumnes Power
15 Plant staffing that's proposed and consistent with
16 the AFC. And the various needs for transport in
17 and out of the facility during the operations
18 phase. And without reviewing it in detail I'd be
19 happy to answer questions. But without reviewing
20 the material in detail.

21 The projection is for 35 individual
22 trips that would start from State Route 104, down
23 Clay East Road and/or from the Power Plant site
24 back. So that's 35 individual trips and something
25 less than 18 round trips.

1 You can compare this with the data
2 provided in Data Response Set 1M, which states
3 currently Clay East Road Volumes are approximately
4 790 vehicles per day, west of Kirkwood Road and 80
5 vehicles per day, east of Kirkwood Road and this
6 is found on page 1 of Data Response Set 1M towards
7 the bottom of the page.

8 MR. COHN: All right, does that complete
9 your summary.

10 MR. NELSON: Yes Sir.

11 MR. COHN: All right, now let me turn to
12 Mr. Logan, who's resume we --

13 PRESIDING MEMBER PERNELL: Can I ask a
14 question real quick?

15 MR. COHN: Yes Sir.

16 PRESIDING MEMBER PERNELL: On the night
17 shift you've got two operation personnel?

18 MR. NELSON: That's correct.

19 PRESIDING MEMBER PERNELL: Is there
20 going to be any security?

21 MR. NELSON: Security, well there is a
22 security system functional and active 24 hours a
23 day that would include remotely operated gates,
24 motion sensors for the perimeter fencing.

25 PRESIDING MEMBER PERNELL: You're not

1 going to have security personnel?

2 MR. NELSON: They'll be security
3 personnel available a phone call away at the
4 Rancho Seco property, but not stations on site, no
5 sir.

6 PRESIDING MEMBER PERNELL: Okay.

7 MR. COHN: Let me just follow-up on
8 that. Do you know approximately how many
9 personnel are on site at Rancho Seco for security
10 purposes?

11 MR. NELSON: I do not.

12 DIRECT EXAMINATION

13 MR. COHN: Let me ask Don Logan, whose
14 resume has been passed out. Could you please
15 state your name and spell it for the record.

16 MR. LOGAN: My name is Donald Logan, L-
17 O-G-A-N.

18 MR. COHN: And what is your job and who
19 do you work for?

20 MR. LOGAN: I'm a transportation
21 engineer for CH2MHILL, where I've worked for the
22 past six years.

23 MR. COHN: And what are your
24 qualifications in the area of transportation
25 engineering?

1 MR. LOGAN: As a transportation
2 engineer?

3 MR. COHN: Given that you have his
4 resume.

5 HEARING OFFICER SHEAN: Okay, aren't
6 they all enumerated in his resume?

7 MR. COHN: Yes they

8 HEARING OFFICER SHEAN: Okay.

9 MR. COHN: Let me ask then whether the
10 resume that we have circulated is true and
11 correct?

12 MR. LOGAN: The resume is true and
13 correct.

14 MR. COHN: And do in corporate that as
15 your testimony here today?

16 MR. LOGAN: I do incorporate that.

17 MR. COHN: Then we will move that into
18 evidence.

19 HEARING OFFICER SHEAN: Well, we'll do
20 that the same we've done as every other resume.
21 Let me just -- can you tell us what you're
22 offering him for?

23 MR. COHN: Basically, what I am offering
24 him for is as a transportation engineer to ask an
25 opinion on whether the routes and the roads that

1 have been proposed by SMUD for both construction
2 and operation are adequate in his opinion to
3 safely handle the traffic expected from these
4 projects.

5 HEARING OFFICER SHEAN: Okay. Did Mr.
6 Logan participate in the preparation of the AFC or
7 any Data Responses?

8 MR. COHN: Mr. Logan?

9 MR. LOGAN: Yes I did prepare and
10 participate helping on the initial preparation.

11 HEARING OFFICER SHEAN: All right. Is
12 there objection to qualifying Mr. Logan as an
13 expert? All right, hearing none, he is qualified.
14 And since -- is he associated with any particular
15 written piece of testimony then?

16 MR. COHN: No.

17 HEARING OFFICER SHEAN: Okay, he's just
18 here to help.

19 MR. COHN: Here to help in the area
20 specifically about Clay East Road. And let me
21 just ask, did you have any role in designing the
22 construction access road?

23 MR. LOGAN: Yes I did. That was one of
24 my proposals, was to come up with the alternative
25 route to the east of the plant to relieve

1 construction traffic.

2 MR. COHN: And is that the route that
3 Mr. Taylor previously described?

4 MR. LOGAN: That is the route shown
5 previously.

6 MR. COHN: Now in your professional
7 opinion, would Clay East Road, had we not come up
8 with the alternative that we did, have adequately
9 and safely handled the construction traffic?

10 MR. LOGAN: Clay East Road is currently
11 rated by -- as a traffic level of service A, with
12 the additional traffic -- I'm sorry, the County of
13 Sacramento requires no worse than a level of
14 service D. The additional traffic from
15 construction would have been adequate on Clay East
16 Road.

17 MR. COHN: But as you heard Mr. Taylor
18 testify, in fact, SMUD is only proposing to use
19 Clay East Road for operations. Now, in your
20 opinion, is Clay East Road adequate to safely
21 handle the operations, or traffic generated by
22 plant operations?

23 MR. LOGAN: It is adequate to handle the
24 additional traffic.

25 MR. COHN: All right, those are all the

1 questions I have for these witnesses. I might ask
2 Mr. Taylor one additional question if I may.

3 HEARING OFFICER SHEAN: Uh huh.

4 MR. COHN: Mr. Taylor, could you please
5 explain why given that SMUD has chosen The patient
6 was born and raised in , came to California in
7 propose an additional or an alternate route during
8 construction, why you do not propose that same
9 route for operations?

10 MR. TAYLOR: Yes. We are currently
11 discussing the security of the whole site with
12 homeland security. And we're in fact, discussing
13 alternate uses of that site with homeland
14 security. And we want to keep the option open of
15 taking that construction road out during the
16 operational phase.

17 HEARING OFFICER SHEAN: Which
18 construction road, the one on the back, on the
19 east side of property?

20 MR. TAYLOR: The one on the right hand
21 side, on the east side yes. We see no need for
22 that during operations phase. We just want to
23 have the ability to take it out. We don't want to
24 be locked into using it.

25 MR. COHN: Are --

1 MR. TAYLOR: There are some issues of
2 egress into the site and the discussions are about
3 the entry to the site from various areas and
4 that's just one area that would provide an
5 additional access towards the nuclear fuel. And
6 we wanted to keep the option of taking --

7 PRESIDING MEMBER PERNELL: When you say
8 discussions, your talking about security, homeland
9 security discussions?

10 MR. TAYLOR: Security issues, yes.

11 HEARING OFFICER SHEAN: Well why don't
12 we discuss that fuel. Currently at the area that
13 was shown in the northwest corner of the existing
14 Rancho Seco site is where you have spent nuclear
15 fuel that is being stored, is that correct?

16 MR. TAYLOR: That's correct.

17 HEARING OFFICER SHEAN: And that will be
18 for what duration?

19 MR. TAYLOR: Until there is some
20 facility, currently discussed is Yucca Mountain,
21 but that looks like it's going to be ten, twenty,
22 years into the future.

23 PRESIDING MEMBER PERNELL: So we're
24 talking about fuel or the rods?

25 MR. TAYLOR: Uh, it's spent fuel rods

1 that are in containers, which are in a vault
2 system.

3 PRESIDING MEMBER PERNELL: Spent fuel
4 rods, right.

5 MR. TAYLOR: Which is located in the
6 area. And this is similar to many, many nuclear
7 plants around the country where this fuel is
8 stored on a long term basis. And the issue before
9 us now is, we need to look at the long term
10 security of that sort of storage.

11 MR. COHN: These witnesses are now
12 available for any additional questions.

13 HEARING OFFICER SHEAN: Uh, I just, I
14 have a couple. With respect to the planned
15 construction access route then, it appears that
16 you've looked for the routes along the west
17 perimeter of existing Rancho Seco site, through
18 the site and now have essentially settled for
19 apparently the last decent option, which is this
20 road along the eastern boundary, east of the
21 photovoltaic, or the portion of the power plant at
22 Rancho Seco, right?

23 MR. TAYLOR: Yes Sir.

24 HEARING OFFICER SHEAN: I guess that's
25 enough with that. I have some questions about

1 traffic issues that relate principally to Clay
2 East Road, but also to some degree with respect to
3 State Route 104, Twin Cities Road. I think it
4 appears that while the roadways themselves may be
5 capable of handling the volumes of traffic that
6 you're talking about, one of the principle
7 concerns of the community is the safety of school
8 children.

9 As I drove those roads, and came past
10 the school here, it's evident that there is a lot
11 of school bus usage in this local district and
12 there are no turnouts that I could see for the
13 pick-up of school children along either of those
14 routes.

15 Can you describe since to testified that
16 you did observe that, what you believe is the
17 typical practice of the school in terms of picking
18 up and then returning children, picking up
19 children to go to school and then returning them
20 to their neighborhoods after school has been
21 completed.

22 MR. TAYLOR: I think Kevin Hudson is
23 probably the person, because we work together on
24 this and that's his area.

25 MR. HUDSON: Sure, I'll answer that.

1 Early on in the process, one of our primary
2 concerns that became evident, was the bussing of
3 school children and school children in the morning
4 and in the afternoon entering and leaving the
5 school.

6 And one of the first things that we did
7 was talk to the school superintendent of both our
8 Arcoe and Galt High School. And we obtained
9 copies of their current bus transportation routes.
10 We studied those routes and we determined that
11 there was adequate opportunity for construction
12 traffic to work around the times that students
13 were being transported either to or from both
14 schools.

15 And in discussion with the principals of
16 each of the schools, we agreed that we would work
17 together to offer solutions to make sure that
18 there wouldn't be any problems with the safety of
19 the students of those schools.

20 HEARING OFFICER SHEAN: Am I correct,
21 having looked at the school busses and looked at
22 both of these roads, that the practice of the
23 drivers would be upon -- it appears that upon
24 observing a child at the end of his or her parents
25 driveway, or at the intersection of a street, they

1 would stop, either on the street or on the street
2 and shoulder, would turn on the lights on the bus,
3 flip out the stop sign, which is intended to stop
4 traffic from passing around the rear of the bus,
5 as well as to stop oncoming traffic, is that what
6 happens?

7 MR. HUDSON: That is correct, and that's
8 my observation as well.

9 HEARING OFFICER SHEAN: And do you have
10 an idea in terms of how many kids are being picked
11 up that way, or how many stops are being made
12 along that road, either of those roads?

13 MR. HUDSON: I don't have an exact
14 estimate for you at this time.

15 HEARING OFFICER SHEAN: I mean, do you
16 think it's -- all right.

17 MR. HUDSON: I would expect, I would
18 expect any one bus would contain up to 40
19 students, 40 or 50 students. My observation is
20 that there may be about six or seven students or
21 bus stops along Clay East Road. But I am not
22 certain about Twin Cities Road.

23 HEARING OFFICER SHEAN: Now, condition
24 Trans-5, which has been amended, seems to be the
25 one that would address a traffic control,

1 construction traffic control plan that would be
2 relevant to this project, is that right?

3 MR. HUDSON: That's correct?

4 HEARING OFFICER SHEAN: And there is an
5 item, a bulleted item number 5, that starts with
6 the language, need for construction work hours and
7 arrival and departure times outside of peak
8 traffic periods. Local school bus travel times on
9 State Route 104, Twin Cities Road and Clay East
10 Road, right? And that's how you intend to address
11 how construction traffic will be essentially
12 diverted by time around the pick-up and delivery
13 of school children?

14 MS. HOLMES: Yes that's correct.

15 Recently, as a matter of fact, this week, I spoke
16 with Jack Hanson, he is the Arcoe School
17 Superintendent, and he felt that there was
18 adequate room in the bus transportation schedule
19 for us to work around the bus transportation times
20 to have the workers going both to and from the
21 construction site.

22 HEARING OFFICER SHEAN: Okay. You
23 probably know from having reviewed the Staff's FSA
24 that the Staff, for example, includes as proposed
25 conditions, what I will call worker awareness

1 programs that are for such things as cultural
2 resources, which basically is stuff you might find
3 in the dirt. Or biological resources, which is
4 bugs and bunnies. I don't see a provision here
5 that makes sure that the workers who will be
6 commuting to and from the site have a clear
7 understanding of what the potential dangers are to
8 school children by commuting at times other than
9 the designated time and that they will need to be
10 made aware of that and follow those instructions
11 so that this measure will be effective.

12 MR. HUDSON: Yes. I think it would be a
13 very important part of the WEAP training given the
14 rural nature of the community to emphasize the
15 operation of traffic, and the manner in which
16 traffic should behave around school buses.
17 Although we would try to avoid the times that the
18 school buses would be present, yes.

19 HEARING OFFICER SHEAN: Well, we don't
20 want their first, the workers first awareness that
21 there was a program to be when there is an
22 accident, so does SMUD have -- would it be
23 acceptable to SMUD if as part of this traffic
24 control plan, we included a worker awareness
25 element to assure that prior to the second day of

1 any workers coming to the project they are made
2 aware of the nature of this mitigation for
3 protection of school children?

4 MR. TAYLOR: Yes absolutely. We're
5 prepared to do that. In addition, we have put
6 some language into the construction contracts,
7 talking about the route into the site. And we
8 basically telling the companies that respond that
9 is your access into the site, there is no
10 consideration of using Clay East Road. So we are
11 already taking steps to address part of that, but
12 certainly we will take the suggestion that we put
13 this into the WEAP training also.

14 HEARING OFFICER SHEAN: Okay. Well, I -
15 - let me just say, I can, I'm glad you segued into
16 that, because I can just about feel the twitching
17 of the construction workers in his Dodge Ram as he
18 gets out of the lay down area and wants to turn
19 west on Clay East Road to get back to 104 to go
20 home.

21 And thinks it's absolute insanity
22 imposed by an insane government to have him drive
23 out your access road and by Rancho Seco Park's
24 entrance and then down to 104. Do you have
25 provisions that will mitigate that urge?

1 MR. TAYLOR: First of all, it's a
2 condition of his employment. So we'll tell the
3 workers, in the WEAP training, in fact, that
4 should they decided to make a right there, then
5 that probably would be their last day. We'll have
6 some security at the entrance to the site who
7 would make sure, in fact, that people make a left,
8 rather than right.

9 HEARING OFFICER SHEAN: Okay. So would
10 it be your opinion, then, that either on Clay East
11 Road or the, I will say the portions of State
12 Route 104 that are east of Clay Station Road, that
13 there is no necessity for either school bus
14 turnouts to pick up children or anything else to
15 mitigate this, you feel that the measures that
16 you've either proposed, or accepted are going to
17 be adequate?

18 MR. TAYLOR: I believe that's the case
19 right now. But I have to emphasize that in the
20 future, if there is an issue with this, SMUD would
21 be quite willing to entertain some discussions in
22 the future with the school district or whoever.
23 It's our policy to be a good neighbor and of
24 course if the school district were to address SMUD
25 and felt that there was some additional

1 requirements then we would certainly look at them
2 favorably.

3 HEARING OFFICER SHEAN: Okay. And while
4 we've dealt with construction workers, in terms of
5 an awareness program, if that were always to
6 include your materials delivery people, both for
7 construction purposes and, let's say for
8 construction purposes. I'm assuming that everyone
9 will be informed of the law with regard to school
10 busses and when they're required to stop. But you
11 know, this is a 55-mile-an-hour zone and we just
12 want to avoid school busses from being rear-ended,
13 or some other unfortunate thing. So it should be
14 a comprehensive program and is that agreeable to
15 you?

16 MR. TAYLOR: Yes Sir, I think to the
17 extent that we can accomplish that, if we have a,
18 you know a single delivery or something, that may
19 be difficult, but especially in operation, those,
20 as Mr. Nelson said, those people will be
21 thoroughly trained. And in case of deliveries for
22 construction, if we have a company doing
23 deliveries then we certainly can include them in
24 the WEAP program.

25 So, maybe we can draw a line somewhere,

1 that if they're likely to come to the site several
2 times then we would put them through that
3 training.

4 HEARING OFFICER SHEAN: I don't have
5 anymore. Anything from the Staff?

6 MS. HOLMES: No questions.

7 HEARING OFFICER SHEAN: Ms. Peasha?

8 CROSS-EXAMINATION

9 MS. PEASHA: Yes, Mr. Taylor, on your
10 Table in the AFC, Clay East Road, the annual
11 average daily traffic is noted here as 3800 by Cal
12 Trans in the year 2000.

13 MR. COHN: You're referring to the AFC,
14 did you say, and what page?

15 MS. PEASHA: I said -- yeah, the, uh,
16 AFC 8.10-7, yeah.

17 MR. HUDSON: We're referring to Table
18 8.10-3, is that correct?

19 MS. PEASHA: 8.10-7.

20 MS. HOLMES: I believe it's page 7 and
21 Table-3. At least that's where I find those
22 numbers.

23 MS. PEASHA: 8.10-3, I don't see that in
24 the AFC. I see --

25 MR. HUDSON: On page 8.10-7.

1 MS. PEASHA: Oh, 8.3-3 is the Table, I
2 am sorry, I was looking at the page. I'm sorry,
3 yes, this is 3800?

4 MR. TAYLOR: What is the question?

5 MS. PEASHA: You stipulated that the use
6 on Clay East Road was 900, I believe?

7 MS. HOLMES: Maybe if I could explain
8 this table a little bit.

9 MS. PEASHA: This is directed towards
10 Mr. Taylor, didn't you --

11 MR. HUDSON: But I believe that I could
12 answer the question.

13 MR. COHN: Just to be clear, we provided
14 the witnesses as a panel so that we could be sure
15 to answer whatever question. So if you'd allow
16 whoever is best equipped.

17 HEARING OFFICER SHEAN: All right. Well
18 at least have the member of the panel who things
19 they're best able to answer to question answer the
20 question initially. If there seems like there is
21 an appropriate cross-examination of another
22 witness or whether they concur with the answer, we
23 can do that.

24 MR. HUDSON: Okay, going down the Table,
25 you'll see one of the sub-headings is State Route

1 104 at mile post zero at the junction of Twin
2 Cities Road and Highway 99. The annual average
3 daily traffic count from this Cal Trans data is
4 8000, it appears to me to be cars and trucks. At
5 State Route 104, mile post 9.22, at the
6 intersection of Clay East Road, the number of cars
7 on Twin Cities Road is 3,800.

8 MS. PEASHA: On Cal East, on Clay East
9 Road that's what the average says, isn't that what
10 it says?

11 MR. HUDSON: No, that would be at Clay
12 East Road, but the traffic would be on Twin Cities
13 Road.

14 MS. PEASHA: Why is there a, why is
15 there a annual average daily traffic at -- on
16 State Route 104 at 8,000?

17 MR. HUDSON: Because they turned off
18 between mile post zero and mile post 9.22.

19 MS. PEASHA: So eight -- 3800 of those
20 turned off at Clay East Road?

21 MS. HOLMES: No.

22 MR. TAYLOR: Well, they stayed on 104.

23 MS. PEASHA: So you're saying the annual
24 average daily traffic is -- on Clay East Road is?
25 What number did you give us Mr. Taylor?

1 MR. TAYLOR: I believe I said 800.

2 MS. PEASHA: Okay, at the time that --
3 I'm sorry, I forget your name?

4 MR. DOGET: Donald Doget.(sp)

5 MS. PEASHA: Yes, they were using Clay
6 East Road as the road to build Rancho Seco Nuclear
7 Park. What year was that?

8 MR. DOGET: What year were they using
9 the road to build, when it was operating as a
10 nuclear facility?

11 MS. PEASHA: When it was, when it was
12 being built. When they were using that as a
13 construction road?

14 MR. DOGET: I don't, I don't have that
15 information.

16 MS. PEASHA: You don't know when the,
17 the year that Rancho Seco Park was built?

18 MR. DOGET: No I don't.

19 MR. HUDSON: Rancho Seco was in
20 operation in about 1974. I don't know the exact
21 years. But I would suspect that it probably took
22 about four or five years to build Rancho Seco.

23 MR. COHN: Mr. Shean, I'm not under oath
24 and perhaps you don't want me to answer. I do
25 happen to know the answer to this question. But

1 if it's significant to know the exact year, it did
2 go into operation in 1974. And it obviously took
3 some time, approximately four years to build from
4 '71 through, or three years, from '71 through '74.
5 We can have Mr. Redeker come back if that's
6 significant?

7 MS. PEASHA: The significancy here is,
8 I'm saying since 1974, till present the --

9 MR. COHN: Well we'll stipulate --

10 MS. PEASHA: -- the, the -- the amount
11 of--

12 MR. COHN: -- we'll stipulate then if
13 that's your point.

14 MS. PEASHA: The amount of, the amount
15 of -- how homes built in that area has been
16 significant.

17 HEARING OFFICER SHEAN: Okay, your
18 testifying. Why didn't you just say. If you
19 assume that Rancho Seco was constructed between
20 1970, let's say and it's operation in 1974, since
21 that time, has there been a significant increase
22 in the residential population along Clay East
23 Road? And it's intersecting roads?

24 MS. PEASHA: Since that time, since Clay
25 East Road has been used for construction of Rancho

1 Seco Park, has there been significant residential
2 homes built in and around the area which now use
3 Clay East Road?

4 MR. LOGAN: I would assume that, well,
5 not being intimately familiar with the growth in
6 the area following national trends, yes there has
7 been additional growth in this area.

8 MS. PEASHA: Would you assume them that
9 the reason that this is not a good road for
10 construction of, or use for Rancho Seco or CPP is
11 because there are a lot more commuters that are
12 coming out to Clay East Road and using that as
13 their commuter road?

14 MR. LOGAN: If you're referring to the
15 numbers that we're saying -- these numbers are not
16 29-years-old if that's -- I guess I'm not quite
17 understanding where you're going with the
18 question.

19 MS. PEASHA: That's correct Sir.

20 MR. LOGAN: These numbers are not
21 29-years-old, no.

22 MS. PEASHA: Well if the -- if there is
23 800 -- if there are 800 people using it now, and
24 there is no construction to Rancho Seco Park or to
25 CPP at this time, doesn't that show that there is

1 a significant growth in the community that's using
2 that road?

3 MR. LOGAN: I guess I'm not
4 understanding your question.

5 MS. PEASHA: Mr. Shean can you help me
6 here?

7 HEARING OFFICER SHEAN: Sure. Does
8 anybody on the panel know whether or not in the
9 period from the construction of the Rancho Seco
10 Nuclear Power Plant to present, there has been a
11 significant growth in residential development,
12 either along Clay East Road or streets that join
13 it?

14 MR. HUDSON: I guess taking a look at
15 the aerial photo, there appears that there are a
16 number of residences, I don't have the information
17 in front of me, nor can am I aware of a study that
18 we've done, taking a look at the increase in the
19 number of residents in the area, but to me, it
20 appears that the parcels are sparsely scattered in
21 the area of Clay East Road.

22 HEARING OFFICER SHEAN: I think Ms.
23 Peasha, this is a matter that you have to assert
24 is a fact and then assert what it's consequence
25 is. We're not going to get that.

1 MS. PEASHA: The volume two appendix of
2 the AFC does give addresses and year built of
3 homes in that area. And there is --

4 HEARING OFFICER SHEAN: Okay, well it's
5 in the record then. And you can use that
6 information to make whatever assertion you think
7 the facts will support.

8 MS. HOLMES: If I could offer some
9 assistance. In appendix 1 of the AFC, which is
10 the assessors information for all of the parcels
11 noted by the project, the year built is provided.
12 So that information is already in the record.

13 HEARING OFFICER SHEAN: Right, I think
14 that's what you just said. Okay.

15 MS. PEASHA: Well, we don't have any
16 type of number here that we, that we can use
17 unless of course if I sat down and totalled this
18 up.

19 HEARING OFFICER SHEAN: I think since
20 it's not in the head of any one of these people,
21 the answer is, that's correct.

22 MS. PEASHA: Just on Clay East Road
23 alone though, the number of homes built there and
24 the reason that they use that road for
25 construction was to get to their property for

1 construction only at that time?

2 HEARING OFFICER SHEAN: I'm sorry, that
3 question is so unclear I'm not sure what I can --

4 MS. PEASHA: I'm sorry, I'm having a
5 little trouble here. Are they not -- did they not
6 stop using Clay East Road after the completion of
7 Rancho Seco Park and made a main entrance on Twin
8 Cities Road for their operations and deliveries
9 and Staff?

10 MR. HUDSON: To my knowledge, the back
11 entrance as shown there, as was shown on the
12 aerial photo, hasn't been used for operation of
13 the Nuclear Power Plant and it was only used for
14 construction to my knowledge.

15 MS. PEASHA: Thank you.

16 HEARING OFFICER SHEAN: And so your
17 answer to her question would be, yes they are
18 using the other access route?

19 MR. HUDSON: Yes, that's correct.

20 MS. PEASHA: Uh, the bus route that is
21 taken through that area, are you aware that there
22 are no residential bus stops between Clay East
23 Road and Rancho Seco Park, than a main entrance on
24 Highway 104?

25 MR. LOGAN: Are you asking if, does the

1 bus make any stops?

2 MS. PEASHA: I'm saying, are you aware
3 they don't, they do not? There are no residents
4 between there.

5 MR. HUDSON: Oh, between Clay East Road
6 and Rancho Seco Park?

7 MS. PEASHA: Yes.

8 MR. HUDSON: Oh, it doesn't appear that
9 there are, yes.

10 MS. PEASHA: There are no residents?

11 MS. HOLMES: That's correct.

12 MS. PEASHA: So there will be -- there
13 is no bus traffic on that, in that area?

14 MR. HUDSON: I would draw the conclusion
15 that a bus wouldn't have to stop to pick up
16 students.

17 MS. PEASHA: Okay. How, after Phase-1
18 is complete and you open the road for operations
19 to Clay East Road are you going to decipher
20 between those who are going to work on the second
21 phase of this project from going to the lay down
22 area as those who are in operation?

23 MR. NELSON: This is Bob Nelson, if I
24 may, there would be a permanent staff in place at
25 Phase-1 already, easily identified.

1 MS. PEASHA: And they will be able to
2 use Clay East Road as their entrance?

3 MR. NELSON: That's correct.

4 MS. PEASHA: Uh --

5 MR. NELSON: Conditions of, if I might
6 expand on that, conditions of certification would
7 be applied to the construction of Phase-2.

8 MS. PEASHA: So, the construction
9 traffic for Phase-2 would still be going around
10 Clay -- or, 104 to the main entrance of Rancho
11 Seco Park, is that correct?

12 MR. NELSON: I would say that's correct,
13 yes.

14 MS. PEASHA: And how are we going to
15 stop people that are working on the same site plan
16 from turning off and going west on that road when
17 they leave that area.

18 MR. NELSON: Maybe I can address that.
19 As Mr. Taylor said, for the construction
20 personnel, for the Cosumnes Power Plant Project,
21 the use of the alternate construction access road,
22 which is the road east of the Rancho Seco Nuclear
23 Power Plant, as we've discussed previously, use of
24 that for their commute to and from work will be a
25 condition of employment which will be enforced.

1 MS. PEASHA: Okay, I have no further
2 questions.

3 HEARING OFFICER SHEAN: Let me -- I do
4 have one more. Has SMUD asserted at any point
5 that regulatory difficulties with the NRC, in
6 terms of constructing some of the first two option
7 access roads to the power plant was a
8 consideration with respect to their not being
9 ultimately selected?

10 MR. TAYLOR: My understand is, that
11 Steve Redeker, the plant manager, did address this
12 with the NRC, but not officially, but asked for
13 direction and discussion on it. And the response
14 was that we should stay away from the spent fuel
15 area.

16 It was our decision to not allow
17 construction traffic to pass directly through the
18 site itself, because we were concerned about
19 contamination and that was our decision. Because
20 the NRC would allow to badge, if you wanted to
21 badge 200 people a day, that's okay. But to us,
22 we don't think that's appropriate.

23 HEARING OFFICER SHEAN: All right. Any
24 re-direct?

25 MS. PEASHA: I have one other question.

1 You said that the -- by using the new construction
2 road along the east side of Rancho Seco for
3 operations, for the operations traffic would be an
4 additional access road that would compromise
5 homeland security. Wouldn't opening up East Clay
6 operations also represent an additional access
7 road that would equally compromise homeland
8 security?

9 MR. TAYLOR: No I don't believe it
10 would. It's further away. There is a natural
11 buffer if you look at Exhibit 1 around the west
12 side of the plant. There is no easy access
13 through there. And the storage area itself is
14 guarded. So it seems appropriate to bring the
15 construction traffic in on the east side of Rancho
16 Seco and allow the very small number of operations
17 traffic to use Clay East Road.

18 HEARING OFFICER SHEAN: Okay, any re-
19 direct from the Applicant?

20 MR. COHN: No.

21 HEARING OFFICER SHEAN: Thank you
22 gentleman, appreciate it and you're excused.
23 Let's see, all right, why don't we do land use
24 then and I'm not sure exactly when we're going to
25 take a break depending upon the length of this,

1 but you can anticipate one.

2 MR. COHN: All right, shall we proceed
3 now?

4 HEARING OFFICER SHEAN: Yes.

5 MR. COHN: All right, on land use, we
6 will once again have Mr. Taylor and Mr. Hudson.
7 And Excuse me, I'll do a brief direct to try to
8 give some background on what we believe the issues
9 Ms. Peasha is raising with respect to lay down
10 area.

11 Given that her concern and the testimony
12 we've now seen from the intervenors deals
13 specifically with not just our lay down area, but
14 a proposal to have a remove lay down area in the
15 existing Rancho Seco Nuclear Site.

16 I also would like to call briefly to the
17 stand, Matt Kelly, who is the head of the Local
18 Building Trades Council as an expert on project
19 construction generally and how lay down sites are
20 designed for construction projects. So we can
21 either have him qualified right now, or I can do
22 the direct of Mr. Taylor first and then bring Mr.
23 Kelly up?

24 MS. PEASHA: I object to that since he
25 did not have any prior testimony.

1 MR. COHN: Well we are aloud to do
2 rebuttal testimony.

3 HEARING OFFICER SHEAN: Uh huh.

4 MR. COHN: As we discussed at the --

5 HEARING OFFICER SHEAN: And his
6 testimony again would be?

7 MR. COHN: His testimony would be as an
8 expert in the area of where lay down areas
9 generally work well or don't work for construction
10 sites. And he can explain what the effect of a
11 remote lay down area would be on workers trying to
12 access the construction site.

13 Because the intervenor has proposed
14 using a remote lay down area. So we thought it
15 might help to complete the record to hear what the
16 effect of that would be in fact, not just in
17 theory.

18 HEARING OFFICER SHEAN: And does he have
19 specific --

20 MR. COHN: If I --

21 HEARING OFFICER SHEAN: -- I mean well,
22 just so --

23 MR. COHN: My under -- I mean, that's
24 why I would --

25 HEARING OFFICER SHEAN: Participation

1 with regard to Rancho Seco or is this a more
2 generalized knowledge?

3 MR. COHN: -- he is the head of the
4 Local Building Trades for the entire Region, so he
5 has familiarity with construction projects of all
6 types. He is familiar with what is proposed at
7 this site. But the purpose of his testimony would
8 be to give an opinion on whether having a remote
9 lay down area would create problems. And his
10 experience with lay down areas in other
11 construction sites.

12 HEARING OFFICER SHEAN: Essentially a
13 generic opinion?

14 MR. COHN: Correct.

15 HEARING OFFICER SHEAN: Okay.

16 MS. PEASHA: Mr. Shean?

17 HEARING OFFICER SHEAN: Yes.

18 MS. PEASHA: I do believe I have a
19 witness that they can cross-examination to bring
20 that out. I don't believe that his testimony
21 should be presented.

22 HEARING OFFICER SHEAN: Well, they would
23 be allowed to rebut that testimony, so I think
24 though that that's the way we --

25 MR. COHN: If you would rather we wait?

1 HEARING OFFICER SHEAN: That's the
2 sequence. Let's do it. That way we can determine
3 whether it's appropriate or not.

4 MR. COHN: Okay, then I will also -- we
5 have a similar topic, or issue with EJ Koford, who
6 is available as a rebuttal witness to Mr. Moore's
7 testimony today. But we're reacting to what we've
8 seen in writing. So we can wait to bring Mr.
9 Koford up until after we've heard Ms. Moore's
10 testimony.

11 MS. PEASHA: Mr. Cohn, I'm not referring
12 to her testimony as far as an expert in
13 construction.

14 HEARING OFFICER SHEAN: No. And he is
15 aware of that. He is talking about something else
16 in the rebuttal portion of our day, okay.

17 MR. COHN: So, if you will then, we'll
18 just go ahead for now and present Mr. Taylor and
19 Mr. Hudson and then we'll wait to bring Mr. Kelly
20 and/or Mr. Koford after the intervenor's
21 testimony.

22 Now, you're still under oath Mr. Taylor?

23 MR. TAYLOR: Yes Sir.

24 MR. COHN: Could you describe the
25 general requirements for a lay down area for the

1 CPP Project.

2 MR. TAYLOR: Yes I can. Would you mind
3 if I first describe briefly some experience that I
4 have in this area?

5 MR. COHN: Go right ahead.

6 MR. TAYLOR: I just would like to say
7 that I have been working in this area for, I hate
8 to say, but at least 35 years. I've worked on
9 some 20 projects around the world. I've worked on
10 development, construction, engineering, and I've
11 taken care of lay down areas in many, many
12 projects. I'm very familiar with it and I'm very
13 familiar with a lot of the processes that Ms.
14 Peasha has been talking about, especially in the
15 area of critical path planning.

16 I've been involved in that for many
17 years. In fact, I first started doing that in
18 1966, in the refueling of a nuclear reactor in
19 England. I am very familiar with that sort of
20 thing. So I would be more than happy to address
21 questions regarding critical path planning.

22 In fact, I have the planning network
23 that we've developed for this project for the
24 construction. And other critical path networks,
25 there's one here for Campbell Soup project, which

1 I'd be more than happy for anybody to inspect.

2 But we're very familiar with this. Moving on.

3 The lay down areas, in my experience,
4 the general requirements are around 40 to 50 acres
5 of lay down, plus we need trailer space for the
6 engineers and superintendents. So we're probably
7 looking at 20 plus trailers on a job of this size.

8 In those trailers, we would probably
9 have 75 to 100 staff and supervision. That's
10 really the general requirements that I would
11 expect to see on a project like this.

12 The Cosumnes specifics I'd like to
13 address are shown on a drawing that I'd like to
14 pass out.

15 MR. COHN: If we could -- we're going to
16 pass out a diagram that actually is based on a
17 diagram that's in the AFC documents, but that we
18 have superimposed pictures on. If we could have
19 that marked as an exhibit for identification?

20 HEARING OFFICER SHEAN: All right, this
21 would be Exhibit-4, entitled Cosumnes Power Plant
22 General Construction Site Lay Out.

23 (Thereupon, the above-referenced

24 document, marked as Applicant's

25 Exhibit Number 4 for identification.)

1 MR. TAYLOR: We put this together
2 quickly, really to make it easier for the
3 intervenor to understand exactly what we intend to
4 do with the lay down areas that we have available
5 to us on the Cosumnes Power Plant Project on both
6 sides of Clay East Road.

7 What you're looking at is the Phase-1
8 Cosumnes Project on the left-hand side, it's kind
9 of in faint. And to the right, immediately
10 adjacent to Clay East Road, what we've put in here
11 is a suggestion and I have to say, that we have
12 not chosen a contractor at this point. So the
13 contractor would, may shift this lay down space
14 around.

15 For example, may decide to park on the
16 south side of Clay East Road and move some of that
17 lay down to the north side of Clay East Road.
18 This is just an example. What we would do here,
19 is to, on the Phase-2 area, we'd have a number of
20 trailers, as I mentioned earlier, construction
21 parking lot and then on the south side of Clay
22 East Road have a lay down area, which could, as I
23 said earlier, be used for parking if the
24 contractor so decided to do that.

25 And what we have here is about 20-acres

1 south of Clay East Road. Eleven-acres in the
2 Phase-2 area and about 4-acres in the switchyard
3 that we could use, which is immediately to the
4 north of Clay East Road on the Phase-2 area. And
5 the trailers would be on the Phase-2 area as I've
6 shown here. And this totals out to about 35-
7 acres, something like that, so as you can see,
8 we're already short of lay down space close to the
9 job site.

10 As I mentioned in my earlier testimony
11 we will store the major large pieces of equipment
12 that come by rail within the Rancho Seco Nuclear
13 property and then go and get them when we need
14 them. We may also use some of the other paved
15 areas for large pieces of equipment such as
16 stacks, which will just sit there until we need
17 them and then we'll go get them and put them up.

18 The lay down space that I've described
19 adjacent to the Cosumnes Plant itself, will mainly
20 be used for equipment that we would need to go and
21 get on a daily basis. Such things as cable, wire,
22 panels, some expensive equipment and so forth that
23 we try and lay that down within our secure area or
24 in the lay down area on the south side of Clay
25 East Road.

1 That's our proposal for lay down and I
2 can continue on and talk about parking. Ms.
3 Peasha has suggested that we have all the
4 construction parking, and in fact all the trailers
5 and all the lay down yard, actually up on the
6 Rancho Seco site. And in my experience, that is
7 not an efficient way to carry out construction of
8 a project this size.

9 The area that Ms. Peasha is talking
10 about, is some 1.3 miles away from the site
11 itself. The bussing logistics for personnel will
12 be difficult and we're probably looking at, maybe
13 an hour a day of additional pay, which if you want
14 to get a full eight hours pay would mean one hour
15 of overtime.

16 So looking at the wage rates, this may,
17 this could cost around 6 million dollars if we
18 were to bus everybody down from the Rancho Seco
19 Nuclear Power Plant Site down to the site
20 everyday. The suggestion was made, that, in fact
21 that we park -- sorry.

22 MR. COHN: Just to clarify, when you
23 gave that figure, was that for both Phase-1 and
24 Phase-2 or just Phase-1, the 6 million dollar
25 additional costs?

1 MR. TAYLOR: That was for Phase-1 based
2 on a million man hours for the project.

3 MR. COHN: Thank you.

4 MR. TAYLOR: Regarding siting the
5 trailers at Rancho Seco, the math in that, really
6 is that there would be 100 people, approximately
7 resident in those trailers. These will be
8 superintendents, engineers, secretaries and so
9 forth. And I've considered that probably 50 of
10 those would need to continually go between the
11 sites and these trailers.

12 These people will be inspectors,
13 engineers, foreman. The drawings would be kept in
14 the trailers and the engineers and superintendents
15 would continually go back and forth to those
16 trailers and the site. So to have those trailers
17 1.3 mile distance, frankly doesn't make any sense
18 at all.

19 We're looking at probably those trips,
20 if there's 50 people commuting, as it were and
21 they make 10 trips a day, you're looking at
22 probably 500 miles a day of back and forth to the
23 trailers and that is obviously, has a huge
24 significance in lost time and inefficiencies.

25 MR. COHN: Does that complete your

1 summary?

2 MR. TAYLOR: Yes it does.

3 MR. COHN: Mr. Hudson and Mr. Taylor are
4 available for questioning.

5 HEARING OFFICER SHEAN: Just so I
6 understand and the Committee understands, the
7 portion of the site layout that is going to be,
8 the non-project lay down and parking area north of
9 Clay East Road, is that to be surfaced in any way?

10 MR. TAYLOR: Yes, that would have AB
11 gravel, hard pack surface.

12 HEARING OFFICER SHEAN: And is the lay
13 down area south of Clay East Road to be surfaced
14 in any way?

15 MR. TAYLOR: We would either surface
16 that, most likely surface it, or have appropriate
17 dust mitigation.

18 HEARING OFFICER SHEAN: Is it your
19 intention to restore the south of Clay East Road
20 lay down site, once you have completed all planned
21 construction of this project?

22 MR. TAYLOR: The question is, will it be
23 removed?

24 HEARING OFFICER SHEAN: Restored?

25 MR. TAYLOR: Yes.

1 HEARING OFFICER SHEAN: So that it will
2 go back into, I don't know if you want to call it
3 agricultural production, there were a bunch of
4 cows out there this morning. But that would be
5 the idea?

6 MR. TAYLOR: Yes, that is the intention.
7 You know, I have to say that that area may be used
8 at some future date for some other purpose and I
9 don't want to elaborate on that.

10 HEARING OFFICER SHEAN: And has either
11 the AFC or the Staff's FSA accounted for control
12 of storm water runoff, et cetera for the south of
13 Clay East Road lay down area?

14 MR. TAYLOR: Yes we have, and Kevin
15 probably can answer that better than I, although I
16 can answer it.

17 MR. HUDSON: Excuse me. Yes we have.
18 Originally when we submitted the AFC, the lay down
19 area was proposed as a rectangular shape. Upon
20 many discussions in Workshops with Staff and
21 intervenors and the Applicant, we actually arrived
22 at a polygon shape, as is actually shown here.

23 The lay down area is actually slightly
24 less than 20 acres. And we took into account the
25 drainage through the site and there are many

1 discussions that we had in which way the drainage
2 patterns would flow to make sure that it wouldn't
3 effect either the natural, the current drainage
4 patterns right now and make sure that if there are
5 any soils or sensitive soils that we would be able
6 to comply with the SWEP and obtain an MPDS --
7 storm water permit.

8 HEARING OFFICER SHEAN: Are there
9 natural drainages that you're going to avoid,
10 either stake off or something like that?

11 MR. HUDSON: Yes, yes there are.

12 HEARING OFFICER SHEAN: And is that kind
13 of represented in your Exhibit 4 here, by the box
14 that basically, approximately in the middle of
15 your polygon shaped figure from left to right?

16 MR. HUDSON: Yes, yes it does. As you
17 can tell in this, the right-hand most or southern
18 most photo appears to go over that, the box and
19 that's -- this is just for illustrative purposes.
20 But there would silt fencing and fencing,
21 basically the orange fencing that we're typical of
22 seeing on construction projects to make sure that
23 the integrity of the swale was maintained.

24 HEARING OFFICER SHEAN: Right, and there
25 will be some lighting in this area for both

1 security and actual use?

2 MR. HUDSON: Yes we would expect so.

3 HEARING OFFICER SHEAN: And that
4 lighting will be subject to the kind of conditions
5 we talked about earlier today.

6 MR. HUDSON: Yes, I believe Visual-4.

7 MR. GARCIA: I have one last question.
8 Would one of you two guys go to the aerial photo
9 and just kind of point out the area that Ms.
10 Peasha had proposed as the alternative lay down
11 area?

12 MR. COHN: If I may for the record, Mr.
13 Hudson is actually putting up what is a figure
14 from the AFC Supplement B, but that has been
15 enlarged so it will be easier to see. But frame
16 one that has the AFC with them, Supplement B,
17 figure 1-8 is an aerial photo of the site,
18 including the existing Rancho Seco Site, the CPP
19 Site and the lay down area.

20 HEARING OFFICER SHEAN: And I will just
21 add for the record, it is identical to Figure-8,
22 project description, appearing in the Staff's FSA.

23 MR. HUDSON: For the record I'll put a
24 post-it note on the area that I believe Ms. Peasha
25 has asked us to consider as the lay down area and

1 parking area. Does that post-it help (inaudible).
2 This area is a asphalt area and my understanding
3 is it was used for a parking area for the more
4 than 1200 operations personnel that operated the
5 nuclear facility up to the time that it was closed
6 in June of 1989. So this is one of the areas that
7 would be, that I believe Ms. Peasha is referring
8 to.

9 HEARING OFFICER SHEAN: If I can get you
10 to stay there, can you indicate the area that SMUD
11 proposes to use for some of these larger equipment
12 pieces that will be arriving by rail and then
13 transported to the site?

14 MR. HUDSON: Yes, the rail spur actually
15 comes into the facility around here. There is a
16 crane and overhead crane, 185-ton capacity right
17 here at the -- in the nuclear facility. And we
18 would expect lay down of large equipment to be
19 within the industrial area either in this area
20 here, or somewhere down in here. Basically we'd
21 look for the suitable space.

22 HEARING OFFICER SHEAN: So is this a
23 moveable crane?

24 MR. HUDSON: It is an overhead crane?

25 HEARING OFFICER SHEAN: Oh, an overhead

1 crane, all right.

2 MR. GARCIA: Could you trace again the
3 new road that you're going to build on the east
4 side?

5 MR. HUDSON: Yes, it's actually
6 identified right here.

7 MR. GARCIA: Okay, thank you.

8 MR. COHN: For the record, Mr. Hudson
9 was pointing at the dotted line on the right side
10 of the figure.

11 HEARING OFFICER SHEAN: Let me just for
12 purposes of the record try to identify here, based
13 (inaudible), because it's likely we're going to
14 use Figure-8 from the FSA. The area identified by
15 the witness as Ms. Peasha's suggested lay down and
16 parking area is at the northeast corner of the
17 developed Rancho Seco Nuclear Power Plant Site and
18 is situated a little bit west of the entry road to
19 that facility.

20 MR. GARCIA: One last thing. The -- if
21 this was the, and I'm pointing to Ms. Peasha's
22 proposed lay down area, if this was what is used
23 for lay down, would the route for transporting
24 people and material be along the newly constructed
25 road on East Clay Road and then up to the plant

1 site?

2 MR. TAYLOR: That is quite correct, yes.

3 MR. GARCIA: Okay.

4 HEARING OFFICER SHEAN: Just so we're
5 clear here, your railroad spur goes by the spent
6 fuel rod storage area, correct?

7 MR. HUDSON: That is correct.

8 HEARING OFFICER SHEAN: Okay. So
9 apparently, and I'm not trying to make a value
10 judgement on this, it's okay for the railroad cars
11 with this equipment to come and go past there, but
12 your decision with respect to a road was that they
13 should not?

14 MR. HUDSON: That is correct.

15 HEARING OFFICER SHEAN: For construction
16 worker access?

17 MR. HUDSON: Yes, that's correct. We
18 had many discussions with Rancho Seco Staff and
19 there would be some extreme precautionary measures
20 taken each time a rail shipment entered the area.
21 And it is no small task to be able to bring these
22 rail shipments on. The thing is, we estimated
23 that there would be approximately 26 shipments and
24 we would have to coordinate the time of arrival of
25 these shipments as they entered into the Rancho

1 Seco industrial facility.

2 HEARING OFFICER SHEAN: And these will
3 be contractor personnel, is that correct, who will
4 be handling these items or Rancho Seco/SMUD
5 employees?

6 MR. HUDSON: It would be contractor
7 personnel coordinating with Rancho Seco employees,
8 yes.

9 HEARING OFFICER SHEAN: Are you ready to
10 have the witnesses?

11 MR. COHN: Yes, they are available for
12 any additional questions.

13 HEARING OFFICER SHEAN: Okay. Anything
14 from the Staff?

15 MS. HOLMES: Nothing further.

16 HEARING OFFICER SHEAN: Ms. Peasha?

17 CROSS-EXAMINATION

18 MS. PEASHA: Yes, you said the lay down
19 area on the south side of Clay East Road was going
20 to ultimately be re-vegetated. But in fact, in
21 your, your FSA, it says that you will not re-put,
22 reconnect the culverts or the swales that used to
23 remain at, on the east side of the road. Is that
24 not correct, Mr. Taylor or Mr. Hudson?

25 MR. HUDSON: I'm not quite sure I

1 understand your question. At the time that we
2 prepared the FSA we had an idea for a place in the
3 lay down area south of Clay East Road.

4 Subsequently through numerous Workshops and
5 discussions with CEC biology and water staff,
6 water and soil staff, we determined that what we
7 would like to do and we had proposed this in
8 subsequent supplements to the AFC, we had changed
9 our minds and have determined that we would
10 maintain the integrity of the terrain and re-
11 vegetate the area after it was used for lay down.

12 MS. PEASHA: But the water swales that
13 were naturally there will not be returned to their
14 natural waterway?

15 MR. TAYLOR: The natural swales will not
16 be touched.

17 MS. PEASHA: You -- well, on your lay
18 down area, okay. You have a corner of it on your
19 lay down area that is moved on there.

20 MR. TAYLOR: Are you looking at the
21 diagram we just passed out? What are you looking
22 at?

23 MS. PEASHA: Well that doesn't
24 particularly show the swales on there.

25 MR. HUDSON: I don't quite understand

1 the question.

2 MR. COHN: Let me make a suggestion. If
3 you want to get into very specific questions
4 related to the design of the portion of the lay
5 down area south of Clay East Road and how we
6 redesign that for environmental reasons, we do
7 have EJ Koford available who is actually more
8 expert in water and biology. He's not obviously
9 here to testify about biology today, but he is
10 available to answer specific questions about the
11 redesign of the lay down area.

12 MS. PEASHA: I don't want to ask him any
13 questions, thank you. I have one more question.
14 And how do you propose to get the heavy equipment
15 from rail way cars to your proposed lay down area
16 up at Rancho Seco Park to your site?

17 MR. TAYLOR: We would use a trailer,
18 it's called a gold hoffer. It has about 25 or 30
19 axles and it's capable of carrying 200-tons. That
20 piece of equipment would not be stored anywhere
21 else. It would be brought to the Phase-1 area and
22 erected.

23 MS. PEASHA: And what -- and which
24 access would it take to get to the site area?

25 MR. TAYLOR: It would use the new

1 construction road that we pointed to, east of the
2 Rancho Seco area. And then west along Clay East
3 Road and north into the site.

4 MS. PEASHA: So in other words, you
5 would bring it up through the parking lot where my
6 post-it is and then bring it back through down.

7 MR. TAYLOR: That's correct.

8 MS. PEASHA: Thank you.

9 HEARING OFFICER SHEAN: And you expect
10 you're going to have the turning radiuses on Clay
11 East Road to do that?

12 MR. TAYLOR: Yes. These are multi-axle
13 trailers specifically designed to make tight
14 turns. Most of the axles, in fact, will turn.

15 HEARING OFFICER SHEAN: And so can I
16 conclude from what you've testified here that what
17 we had termed an existing construction road for
18 the Rancho Seco Project, which goes from Clay East
19 Road up to the Rancho Seco Project will not be
20 used for -- to any great extent and for any
21 particular purpose such as transporting this
22 equipment or personnel?

23 MR. TAYLOR: I think we would look at
24 the, at that road, but as you see, it comes into
25 the center, the middle of the plant on the west

1 side and we have to grade that whole area there.

2 So there is some changes in the
3 elevation that may make that road impractical to
4 use as far as bringing in heavy equipment.

5 HEARING OFFICER SHEAN: Because it will
6 be higher or lower than grade at the power plant
7 site?

8 MR. TAYLOR: Because the power plant
9 site will be higher at that point.

10 MS. PEASHA: I have one more question.

11 HEARING OFFICER SHEAN: Uh huh.

12 MS. PEASHA: Isn't that road that we
13 speak of that goes from the -- the existing road,
14 isn't that right now a useable road?

15 MR. TAYLOR: I don't believe it is a
16 useable road as it stands. Not for the type of
17 equipment and loads that we are talking about
18 carrying.

19 HEARING OFFICER SHEAN: Okay, so good
20 enough for the Nuclear Power Plant, but not good
21 enough for this, is that essentially correct?

22 MR. TAYLOR: I think when it was new,
23 for the original power plant it was probably a
24 good road. And I believe most of the heavy
25 equipment came in by rail to the old plant and was

1 installed directly in that way.

2 HEARING OFFICER SHEAN: Okay.

3 MS. PEASHA: Couldn't that road be
4 improved as well as building a new access road?
5 For probably a better cost?

6 MR. TAYLOR: I think the question is if
7 we only have a relatively small number of pieces
8 of equipment to bring down through there that we
9 wouldn't want to do that. Why would we not load
10 the equipment and bring 20 trips, make 20 trips
11 down the new proposed construction road?

12 MS. PEASHA: Why would we not?

13 MR. TAYLOR: Why would we not? I mean
14 it's there, we would use it. The new construction
15 road that is.

16 MS. PEASHA: Why would you not used by
17 proposed lay down area?

18 MR. TAYLOR: I'm sorry, I didn't
19 understand that.

20 MS. PEASHA: Well, you're going to, your
21 going to be, your going to put parking on your lay
22 down area or your site for your second -- the
23 second phase of your site for parking, why not
24 improve that road and bring them in right that way
25 and put the parking in there?

1 HEARING OFFICER SHEAN: I think he's
2 already testified to that. That was his initial
3 direct testimony. So rather than have you repeat
4 that. Okay, anything further? All right, we're
5 done with land use.

6 MS. PEASHA: No we -- I have.

7 HEARING OFFICER SHEAN: With respect to
8 the --

9 MR. COHN: Well, yeah, and then with
10 respect to our direct, yes we're done.

11 HEARING OFFICER SHEAN: Okay.

12 MR. COHN: And then we may have
13 additional rebuttal after her witnesses.

14 HEARING OFFICER SHEAN: That's what's
15 the problem I don't finish my sentence.

16 MR. COHN: Can we take a two minute
17 break?

18 HEARING OFFICER SHEAN: Yes, now we can
19 take our break.

20 (Thereupon a recess was taken.)

21 HEARING OFFICER SHEAN: Okay I believe
22 we've completed the testimony from the Applicant
23 on land use. And what I'd like to do at this
24 point is a little bit of housekeeping. We have
25 presently four Exhibits, the two aerial

1 photographs, the CCP Operations Phase Traffic
2 Projection is Exhibit 3 and the Cosumnes Power
3 Plant General Construction Site Layout. Why don't
4 we get these into the record. Is there objection
5 to the admission of Exhibits 1 through 4 into the
6 record? All right, hearing none, they're
7 admitted.

8 (Thereupon, the above-referenced
9 document, marked as Applicant's
10 1 through 4 for identification, were
11 received into evidence.)

12 HEARING OFFICER SHEAN: Also, in the
13 discussion about traffic and transportation there
14 was an apparent acquiescence by SMUD in having an
15 addition to the condition Trans-5 I believe it
16 was, which would include an employee awareness
17 program. I would just ask that the Staff and
18 Applicant as they are in noise, coordinate to
19 provide the added language that appears to execute
20 the wishes of the Committee on that matter.

21 MS. HOLMES: Yes we will do that.

22 HEARING OFFICER SHEAN: With that, we
23 are ready to move to Ms. Peasha and her
24 presentation on land use.

25 MS. PEASHA: I have two witnesses that

1 are, that have provided pre-testimony and need to
2 be sworn in at this time.

3 HEARING OFFICER SHEAN: All right. If
4 you'll both stand please.

5 Whereupon,

6 DIANE MOORE/JOCK PEASHA
7 were called as witnesses herein and, having been
8 first duly sworn, were examined and testified as
9 follows:

10 MS. PEASHA: Okay, first of all we have
11 Diane Moore, would you please state your name and
12 spell it for the record?

13 DIRECT EXAMINATION

14 MS. MOORE: I'm Diane Moore, that's D-I-
15 A-N-E Moore, M-O-O-R-E.

16 MS. PEASHA: Do you have any --

17 HEARING OFFICER SHEAN: Stand by just a
18 second.

19 (Thereupon a brief discussion was held
20 off the record.)

21 MR. COHN: We welcome the rain, by the
22 way.

23 PRESIDING MEMBER PERNELL: Every inch a
24 million bucks.

25 (Laughter)

1 HEARING OFFICER SHEAN: All that rain
2 does not mean we're stuck inside and we can go as
3 long as we want.

4 (Laughter)

5 HEARING OFFICER SHEAN: Okay, Ms. Peasha
6 please.

7 MS. PEASHA: Diane Moore has stated and
8 spelled her name for the record. Do you have any
9 changes to your testimony or qualifications that
10 you have provided?

11 MS. MOORE: I guess I just want to note
12 that the -- both the qualifications I provided and
13 the testimony were, you know, quite brief
14 summaries. I have a full resume I could break out
15 in the future if that became something that you'd
16 want to see. Probably when I come back for
17 biology we'll bring that.

18 HEARING OFFICER SHEAN: Well, given
19 the -- let's do it this way. Given the scope of
20 the testimony she's provided, is there an
21 objection to her qualifications to testify as an
22 expert on those matters? All right, she is so
23 qualified. Shall I just jump ahead here and ask
24 is there objection to the admission of the
25 essentially three page testimony of Ms. Moore that

1 was previously filed by Ms. Peasha? All right, in
2 the absence of objection, it's admitted.

3 MS. PEASHA: Thank you. Okay, Diane,
4 have you reviewed the land use of the AFC and how
5 it may pertain to the potential lay down areas
6 that the Applicant has submitted.

7 MS. MOORE: Yeah, I have reviewed the
8 land use chapter of the AFC and I guess I want to
9 first summarize some of my comments on the AFC as
10 it pertains to the question of what is the best
11 lay down area? You know obviously today I'm here
12 at the request of Kathy and I'd rather be
13 testifying on biology.

14 And I know that, you know, that while
15 today's topic is land use, that there are valuable
16 biological resources in the pristine or relatively
17 pristine vernal pool grasslands that we have out
18 here in this portion of the County. And biology
19 really becomes highly relevant to the analysis of
20 appropriate land use in such pristine and remove
21 areas.

22 And it ultimately has a lot to do with
23 making the best decisions on the use of land. One
24 of the things in the AFC land use chapter that
25 caught my eye the most is the designation of a

1 Resource Conservation Area. And I actually, I do
2 most of my work down in San Joaquin and Merced
3 Counties and Stanislaus, Tuolumne.

4 I'm not that much in South Sacramento
5 County so I am not that familiar with the exact
6 verbiage and the general plan. But the Resource
7 Conservation Area designation of the greater site
8 there, including the whole plant area and lay down
9 area is a topic that is kind of cryptically and
10 briefly analyzed in the AFC. And then it's
11 rapidly dismissed.

12 And I first, you know, first of all I
13 looked for a definition of what is a Resource
14 Conservation Area. To a biologist, when I hear
15 that, I think wow, there must be something good
16 out there, worthy of protecting. So I first
17 looked for, you know, what is this. And it's a
18 little bit hard to find in the chapter, but I
19 managed to find it.

20 And the definition I found talks about,
21 it's on page 8.4-9 of the land use section. And
22 it introduces that a Resource Conservation Area
23 land use designation is based on potential
24 unconfirmed resource availability and is subject
25 to change based on a project consistency with

1 general plans, land use and zoning requirements.

2 I'm not quite sure what that is, but
3 then I went back and I found another sort of
4 semi-definition on page 8.4-5. And that's in
5 Section 8.4.2.2.1. In that -- near the bottom of
6 the page there, it says, "the resource
7 conservation overlay pertains to potential, but
8 un-investigated natural resources based on
9 information available to Sacramento Planning
10 Department, Sacramento County Planning
11 Department."

12 And so, it still strikes me that it's
13 got to be something important for the Planning
14 Department to have said let's --

15 HEARING OFFICER SHEAN: I think your
16 papers were covering the mic.

17 MS. MOORE: Oh, I'm sorry. It sounds
18 important enough that it was mapped. And actually
19 in reading this whole chapter -- this is really
20 quite a rain storm. In reading the whole chapter,
21 it was interesting that the --

22 HEARING OFFICER SHEAN: We're creating
23 vernal ponds as we speak.

24 MS. MOORE: In reading the chapter, the
25 resource conservation overlay designation is only

1 brought up in two areas. And one is the project
2 site itself. And the other is down near the
3 Cosumnes River.

4 And when I -- I've worked on projects
5 near the Nature Conservancy, I worked with the
6 Nature Conservancy on funding some of their
7 various projects. And when I hear the Cosumnes
8 River, I think of a resource of great importance
9 and great sensitivity. So that kind of raised a
10 flag. Well, maybe this designation is really
11 important if the preserve down there has got it.
12 And up here we have an overlay that must mean
13 something.

14 So I kind of delved into this a little
15 bit further. And one thing that kind of got me,
16 is we've identified here that the plant site is in
17 the lay down area is within a Resource
18 Conservation Area that pertains to potential but
19 un-investigated natural resources. And I'm just
20 thinking we've had a couple years, these shouldn't
21 be un-investigated anymore. And maybe in this
22 land use analysis we need to complete that
23 investigation so we can see, is this important at
24 all.

25 In trying to understand what does

1 resource conservation overlay mean. I looked at
2 Table-8.4.4. And it is the definition, this Table
3 is the planning designation definitions in the
4 project vicinity. And this Table has a, it has a
5 number of land use designations, including the
6 resource conservation overlay.

7 And it has a column of examples of
8 permitted uses. And for things like agricultural
9 crop land, there is a good definition that says
10 for the example of permitted uses, agricultural
11 lands most suitable for intensive agricultural
12 agriculture including row crops, tree crops, blah-
13 blah-blah.

14 It talks about single family dwellings,
15 single family dwellings are allowed at a density.
16 It talks about specific permitted uses. When I
17 look at the definition of natural preserve, it
18 talks about what that is.

19 When I look at the definition of
20 resource conservation overlay, it says, "portions
21 of District property which the facility will be
22 sited on overlap with the combining land use
23 designation of Resource Conservation Area." So
24 I'm not sure if that's saying it's a permitted
25 use, or what are the range of permitted uses

1 within a Resource Conservation Area.

2 So I am still a little bit lost at what
3 is this designation allow and what does it not
4 allow? Because it doesn't say that it, it doesn't
5 say that here. Further down on this page, back in
6 Section 8.4.2.2.1, it says "The designation does
7 not necessarily restrict the land use for the area
8 included in the overlay." And that's according to
9 Stevens, who I understand is a County planner.

10 And so it says the designation does not
11 necessarily restrict. And to me, I think well
12 gosh, but it could restrict it. And if it could
13 restrict the appropriate land use, this would
14 trigger further investigation of is this a
15 Resource Conservation Overlay that's important
16 enough that it should restrict this land use. And
17 without going into biology, I'm just not sure if
18 land use can be adequately analyzed. So I'm still
19 concerned that this may be fundamentally
20 incompatible with the land use designation in the
21 area.

22 In going further on in the chapter, I
23 got to the significance criteria for CEQA, which I
24 understand the CEC process parallels CEQA, it's a
25 little bit different, but the heart of it is the

1 same. And I'm a lot more familiar with the
2 thresholds of significance with biology. So
3 actually, this is the first time I had looked at
4 what are the land use ones in a while.

5 But number one was, you know, does the
6 project physically divide an established
7 community? Well, yeah, I don't think we're going
8 to argue that. There is no community on either
9 side that are being divided.

10 Does the project conflict with the any
11 applicable land use plan policy or regulation?
12 And I don't think that answer has been -- I don't
13 think the answer is obviously it doesn't. I don't
14 think that this has been flushed out enough. I am
15 not convinced that this Resource Conservation Area
16 designation is compatible with the proposed
17 project.

18 The third criteria of significance under
19 CEQA for land use is does the project conflict
20 with any applicable habitat conservation plan or
21 natural community conservation plan. Well we call
22 those HCPs and NCCPs. So that's what I know. But
23 basically, those are regional conservation plans
24 and we do have one that's been in the works in the
25 south county, it's not mentioned in here, the

1 South Sacramento County HCP, which has been a
2 little bit of a floundering effort, but is
3 nonetheless still alive.

4 So we don't have an up and running a
5 adopted HCP, but we do have an HCP in prep.
6 Moreover, the area has been proposed as critical
7 habitat for vernal pool fairy shrimp and you know
8 if we want to put the bull's-eye in the middle of
9 the target of the polygon to proposed critical
10 habitat out there, the project site is it. It's
11 right in the middle of the proposed critical
12 habitat.

13 So to me, that might even suggest that
14 the Resource Conservation Area designation has,
15 really has some meat behind it. This is an area
16 that the Federal Government has said, hey, this is
17 critically important to listed species. And we've
18 got a land use policy that says we have un-
19 investigated things, but it's flagged by the
20 County as being potentially important.

21 And so this is a great concern to me and
22 as the project component such as the lay down
23 area, which is to me something that can be kind of
24 moved around because it's a temporary type of a
25 project component. It's there and then it's gone.

1 Why are we looking at moving south off the
2 established grounds if you will of Rancho Seco
3 Power Plant property proper across the street into
4 the more pristine and untouched vernal pool
5 grasslands on the south side?

6 And that drove my attention to looking
7 at other lay down areas. But before I talk about
8 that a little bit, because this kind of rolls into
9 it. Further on in the land use chapter in the
10 conclusions, it basically says that the area of
11 the proposed project, and I'm reading from page
12 8.4-15, just before the references section. " The
13 area of the proposed project designated with the
14 Resource Conservation Area Overlay had otherwise
15 been proposed for expansion for existing power
16 plant uses and constitutes a minor amount of
17 available County space for conversion to a
18 developed use."

19 So the importance of the Resource
20 Conservation Area Overlay has just been dismissed
21 by saying, this was just an overlay on something
22 that was already proposed for electric, or you
23 know, or for potential future electric development
24 or industrial development, power plant
25 development. And it's just a little bit of the

1 open space in the County, so no big deal.

2 And I think that when you're looking at
3 that bull's-eye in the middle of a target of an
4 area that's been identified as of great importance
5 and potential critical habitat designation, you
6 can't just dismiss it and say, hey, there's vernal
7 pools over here, there's vernal pools over there,
8 this doesn't matter. This is the northern part of
9 an -- actually Rancho Seco is in the heart of an
10 area of very dense and important vernal pool and
11 swale complexes.

12 So I think that curtly dismissing it by
13 saying, hey, there's other vernal pools over there
14 and it's next to an existing power plant, I
15 question whether or not we are really paying the
16 right level attention to, is this a consistent
17 land use?

18 I think that building a power plant next
19 to an existing old power plant is a great land use
20 because you've already got your electric lines,
21 you've already got a lot of areas of disturbance.
22 Why increase that footprint of disturbance.

23 I think that Kathy has proposed lay down
24 area up in the northeast corner has a lot of
25 merit. The big stuff is driving by, right by

1 there anyway. The construction people will be
2 coming in by that road anyway. It's a good
3 central place. There is adequate room in the
4 project site, in the southern portion of the
5 project site for lay down for Phase-1.

6 And the fact that the big stuff is
7 staying up where it is until it's needed, we don't
8 need, you know a huge acreage. There seems to be
9 ample space in the Phase-2 lay down area for the
10 smaller things that you'd lay down there. Maybe a
11 few construction trailers. But the construction
12 workers, they don't all need to bring their cars
13 down there and park. They could be ferried in
14 group.

15 Alternately, well not alternately, then
16 moving on -- so I'm saying that I think that the
17 southern portion of the project site has ample
18 room in combination with the big stuff from the
19 trains being stored at the nuclear facility where
20 it will be until it's moved down. As well as the
21 worker traffic and some of the administrative
22 trailers being housed up in the existing parking
23 lot. That we don't have a basis for saying we
24 need to go south of the street.

25 Now Phase-2, I know that's not the

1 subject of today, building Phase-2, but it's
2 something that we need to look at so that we're
3 not piece-mealing things horribly.

4 As a biologist I look at the wet land
5 map first. And I look at the area immediately to
6 the west of the project site and say there is no
7 wet lands here. And then I look at the topo map
8 and I go, it's pretty darn flat. And then I look
9 and say, it's not across the street from the
10 project, it's right next to it.

11 And I'm just thinking that that might be
12 a more viable lay down, you know if additional
13 space is needed in Phase-1 beyond what I think is
14 already ample, perhaps expanding out to the west
15 in the lay down area is a logical place to go. So
16 that's my summary of my review of the AFC and how
17 it pertains to the lay down area.

18 HEARING OFFICER SHEAN: Do you want your
19 other witness to go now and then we'll just do you
20 as a group?

21 DIRECT EXAMINATION

22 MS. PEASHA: Yes, I'll go ahead and
23 introduce my next witness. Would you please state
24 your name and spell it for the record.

25 MR. PEASHA: Jacques Peasha, J-A-C-Q-U-

1 E-S P-E-A-S-H-A.

2 MS. PEASHA: Do you have any changes to
3 your testimonies or your qualifications?

4 MR. PEASHA: No.

5 MS. PEASHA: Have you --

6 HEARING OFFICER SHEAN: Here, I'll help
7 you out with that. Is there objection to the
8 qualifications of this witness?

9 MR. COHN: Is she -- is he being
10 presented as an expert witness, or just as a lay
11 witness?

12 MS. PEASHA: He is presenting as an
13 expert witness.

14 MR. COHN: Then yes, I do object. And
15 would want to Voir Dire the witness.

16 MS. PEASHA: Pardon me?

17 HEARING OFFICER SHEAN: He gets to ask
18 your witness some questions about his education
19 and experience in terms of being qualified to
20 testify as an expert. And I guess what we should
21 understand here is what that expertise is. So I'm
22 going to ask the witness first to describe that
23 and then if Mr. Cohn has some questions. So, Sir,
24 can you describe what you believe your expertise
25 is with regard to your testimony here on land use?

1 MR. PEASHA: Yeah. Experienced in
2 Public Works Projects for the last 20 years. I've
3 done waste water plants and I've done private work
4 for air products down in L.A., hydrogen plants. I
5 was responsible for civil portion in regards to
6 the layout of the site and the lay down areas.

7 HEARING OFFICER SHEAN: Okay and so when
8 you say you've done, you're talking about project
9 scheduling, materials purchasing, owner
10 coordination, subcontractor scheduling and job
11 safety?

12 MR. PEASHA: That's correct.

13 HEARING OFFICER SHEAN: Is there
14 anything in addition to that the duties that you
15 may be, you know, relevant to this?

16 MR. PEASHA: Uh, pertaining to my
17 testimony, my thoughts, no, I have nothing
18 further.

19 HEARING OFFICER SHEAN: Okay.

20 REPORTER: Excuse me, I'm sorry. With
21 this rain, I didn't hear you Mr. Shean.

22 HEARING OFFICER SHEAN: Really?

23 REPORTER: I'm not hearing at all.
24 Maybe you can take a five minute break during the
25 thunder shower.

1 HEARING OFFICER SHEAN: Apparently we're
2 having a hard time with the Court Reporter hearing
3 us, so we're going to both -- you know --
4 notwithstanding my parade deck voice, apparently
5 we've got to get right up to the mic. The Gods
6 are interfering with our process here. Have you
7 ever acted as a project manager in your capacity
8 as an employee of, is it Pacific Mechanical
9 Corporation?

10 MR. PEASHA: Yes, and yes I have.

11 HEARING OFFICER SHEAN: And in that
12 respect do you have experience with regard to the
13 establishment and maintenance of lay down areas?

14 MR. PEASHA: Yes.

15 HEARING OFFICER SHEAN: The black mic is
16 the more important one here.

17 MR. PEASHA: Yes I have.

18 HEARING OFFICER SHEAN: All right, Mr.
19 Cohn, do you have something you want to ask the
20 witness?

21 MR. COHN: Yes I do. I do not question
22 his qualifications with regard to smaller
23 construction projects, but rather with regard to
24 large projects and/or power plant projects. So
25 I'll proceed with a few questions on that basis.

1 Mr. Peasha, have you ever been a project manager
2 or superintendent on a power plant project?

3 MR. PEASHA: No I have not.

4 MR. COHN: And have you ever been a
5 project manager or superintendent on any
6 construction project with a value over 100 million
7 dollars?

8 MR. PEASHA: No I have not.

9 MR. COHN: With a value over 50 million
10 dollars?

11 MR. PEASHA: Uh, I'm currently, our
12 contract at the Lincoln Waste Water Treatment
13 Plant, I'm the mechanical contractor on a 54
14 million dollar project.

15 MR. COHN: Okay, now that's, does that
16 appear on your resume?

17 MR. PEASHA: It's my current project,
18 we're listed as 14 million as our contract that's
19 on a 54 million dollar project.

20 MR. COHN: Okay. What I would object
21 would be for this witness to be an expert on Power
22 Plant Construction. I do not object as to
23 construction generally.

24 PRESIDING MEMBER PERNELL: I would just
25 ask that those who are testifying to grab the mic

1 and just hold it close.

2 HEARING OFFICER SHEAN: We'll see if
3 that works.

4 PRESIDING MEMBER PERNELL: Can you hear
5 me?

6 REPORTER: Barely

7 HEARING OFFICER SHEAN: All right, so
8 this is inaudible to you? Okay, we're going to
9 have to stand down for a second here because we
10 just can't get this to go. Now is when we need
11 Bonnie to bring on the drinks.

12 PRESIDING MEMBER PERNELL: We're off the
13 record.

14 (Thereupon a brief recess was taken due
15 to rain storm.)

16 HEARING OFFICER SHEAN: Back on the
17 record. Let's see. Just in case it was not
18 audible at the time, with respect to the
19 testimony. First of all, the qualifications of
20 Mr. Peasha to testify as an expert, he is
21 qualified within the scope of his resume and
22 qualifications that he's testified to on direct
23 and on Voir Dire. And his land use testimony, is
24 there an objection to it's admission?

25 MR. COHN: As long as it's understood

1 that that does not go to the expertise of power
2 plant related facility construction.

3 HEARING OFFICER SHEAN: Okay, I think
4 that goes to the weight as opposed to the
5 admissibility of the testimony. All right, so
6 with that, the testimony of Mr. Peasha is
7 admitted. We'll turn him back over to you Ms.
8 Peasha, this is an unusual position for you to be
9 in, probably one that you delight in. If you want
10 to tell your witness what to do.

11 (Laughter)

12 PRESIDING MEMBER PERNELL: It's all
13 legal.

14 HEARING OFFICER SHEAN: You got about an
15 hour and a half to do that.

16 MR. PEASHA: I'll be quick.

17 MS. PEASHA: Mr. Peasha, I would just
18 like for you to reiterate on the lay down area
19 that you proposed with your testimony and how you
20 see the feasibility of it.

21 MR. PEASHA: Okay, with my experience,
22 when I first looked at this site, which I'm very
23 familiar with and the lay down area, the Phase-1
24 construction. As a contractor, the first thing we
25 look at, is it's always the contractors

1 responsibility for safety. I look at the
2 mitigating issues of crossing Clay East Road. I
3 would not use the -- Mr. Colin emphasized the need
4 for the lay down area close to the location where
5 it's going to be installed. I would not utilized
6 that for parking. I would utilize the pre-paved
7 area for parking, rather than the adjoining area
8 next to the construction. I also wouldn't --
9 would prefer not to have to cross a county road or
10 a county road with materials handling when it's
11 feasible to do it within the site of Phase-2.

12 I would also propose, rather than using
13 Clay East Road, extend the construction access
14 road along the area that's currently used, I think
15 the -- make a fire break across that road -- and
16 not use Clay East Road at all to access the
17 construction site. Therefore, you'd have complete
18 control of all the personnel, all the deliveries,
19 and you wouldn't have to even worry about in your
20 employees package, or however you worded that, not
21 to head west off of Clay East Road.

22 It just makes more sense to me and
23 according to the areas that I've been told,
24 there's adequate room for parking. And you're
25 main administrative trailers up in the paved area

1 and you could still have the room in the Phase-2
2 area for your general construction foreman
3 trailers and what have you.

4 As far as transportation for the
5 workers, I've done it on the Carson Project in
6 L.A. As far as overtime, they report to the
7 parking area at the starting time. We hired a
8 person, she was an apprentice operator, she ran
9 the bus and she worked an hour overtime in the
10 morning and in the evening.

11 So the crews reported to the bus stop in
12 the parking area at their starting time and it
13 would be the same amount of time to leave. And
14 from where the proposed parking is now to get out
15 the route that's proposed. So I don't see the
16 overtime issues. We didn't run into it at the
17 Carson Plant.

18 And on my projects, I'd always prefer to
19 have the problems of personal vehicles that close
20 to a construction project of this magnitude. So
21 it just makes clear sense to me, why deal with the
22 problems across the road when you've got the
23 access and a paved area already available to you
24 on site. And that's how I came to my conclusion
25 for the lay down areas.

1 HEARING OFFICER SHEAN: All right, thank
2 you. Anything further from your witnesses before
3 cross-examination?

4 MS. PEASHA: No Sir.

5 HEARING OFFICER SHEAN: Okay, thank you.
6 Any cross by SMUD?

7 CROSS-EXAMINATION

8 MR. COHN: A few questions for Ms.
9 Moore. Can the court reporter hear me okay with
10 the rain coming? Can you hear me okay? Test,
11 test, one two three. I'll try to speak as loud --
12 try to speak in directly to, not the P.A. but the
13 smaller all black microphone.

14 Ms. Moore if I could direct you to your
15 pre-filed written testimony, the second page, the
16 paragraph beginning, "the proposed gas pipeline
17 and construction access road are situated along
18 Clay East Road, a small lightly traveled road
19 lined with residences." Do you see that
20 testimony?

21 MS. MOORE: Yes I do.

22 MR. COHN: Are you aware that the
23 pipeline actually does not go down the road?

24 MS. MOORE: It's my understanding that
25 the pipeline is situated not in the center of the

1 road, but I believe it's offset, just off the
2 road, perhaps, right along the edge of the
3 vineyard there.

4 MR. COHN: Well, you're testifying not
5 me. But if the question then, or your answer then
6 is it's not in the road, it's near the road, but
7 off the road, is that correct?

8 MS. MOORE: I think that in my testimony
9 here, I might have been being a little bit liberal
10 with road as far as if you're talking about the
11 paved surface or the road right of way. I'm not
12 sure how far -- how wide the right of way is, how
13 far off the paved surface it is or the relevance?

14 MR. COHN: All right. And then further
15 down that paragraph, you indicate that "using Clay
16 East Road as the primary construction access road
17 is inappropriate, as there is much better and
18 safer access directly off Highway 104." If you
19 were to find out that SMUD, in fact were not going
20 to use the portion of Clay East Road that has
21 residences, would that then satisfy your concern
22 as expressed in that paragraph? If SMUD were to
23 agree not to use the residential portion of Clay
24 East Road for construction?

25 MS. MOORE: I think I'd need you to try

1 to define where you're breaking the residential
2 versus the non-residential portion of the road.

3 MR. COHN: My break would be west. If
4 SMUD were to agree not to use any portion of Clay
5 East Road for construction west of the power plant
6 site, would that satisfy the concern as expressed
7 in that paragraph?

8 MS. MOORE: I think that it would
9 largely address the concerns with the exception,
10 if you were going to build another road exactly
11 parallel and north of Clay Station Road there, in
12 the existing vineyard that would basically be
13 traveling the same direction, I think that would
14 be a -- still a problem.

15 MR. COHN: No that -- so if, if SMUD
16 were not to propose a parallel road to Clay East
17 Road, but simply use the existing Clay East Road
18 to the east of the power plant site, that would be
19 okay then?

20 MS. MOORE: I guess I'm not really sure
21 at how you would get to there, if you didn't start
22 out from 104 and travel east on Clay Station Road.
23 Could you graphically --

24 MR. COHN: Why don't you, we can either
25 have you come up to this map, which is --

1 HEARING OFFICER SHEAN: We may have very
2 limited time given the forces of nature here. Why
3 don't you have Mr. Taylor --

4 MR. COHN: Mr. Taylor, if you could
5 point out the -- if SMUD were to build an access
6 road that would come around to the east and then
7 come down only on the portion of Clay East Road
8 which is to the east of the plant site, and not
9 come through the portion west of that that goes
10 all the way over to Twin Cities Road, would that
11 alleviate the concern expressed in that paragraph?

12 MS. MOORE: I think that that is a
13 better land use choice than using --

14 MR. COHN: All right.

15 MS. MOORE: -- than Clay Station -- than
16 using Clay East Road. But in my written testimony
17 here, I think I was being a little broad in when
18 I'm talking about using that road. I wasn't
19 splitting hairs between construction and
20 operation.

21 I didn't know until I was here today
22 that there was that much hair splitting. I don't
23 think that road should really be used for anything
24 other than building, back-filling and trenching
25 the pipeline and then using a single route forever

1 for everything related to the plant.

2 MR. COHN: Now, in your testimony here
3 today, you spoke at some length about the
4 designation of a Resource Conservation Area and
5 some concerns that you had about perhaps there
6 being an incompatibility with the land use
7 designation of that area. And I would ask whether
8 you are aware that the County of Sacramento, on
9 September 25th, 2002, formally adopted a
10 resolution adopting the planning director and
11 planning staff's recommendation, finding that the
12 proposed project is, in fact, consistent with the
13 Sacramento County General Plan and is Compatible
14 with specifically, the land use public facilities
15 and agricultural elements of the Sacramento County
16 General Plan, as well as the Sacramento County
17 zoning ordinance?

18 MS. MOORE: So you're question is, was I
19 aware of a resolution back in September of last
20 year?

21 MR. COHN: Correct.

22 MS. MOORE: No I was not aware of that.

23 MR. COHN: And that document, I might
24 indicate to the Committee has been docketed, it's
25 referenced in the FSA on page 4.5-9. Actually, I

1 don't know that the document's reference there,
2 but the finding is. The document itself was
3 docketed on September 30th, so I would request
4 that official notice be taken of that document.

5 HEARING OFFICER SHEAN: All right, is
6 that in your -- has that been listed in as support
7 in any of your --

8 MR. COHN: I don't believe --

9 HEARING OFFICER SHEAN: -- support in
10 any of your testimony?

11 MR. COHN: -- it's list is -- it's
12 referenced in the FSA. But I don't -- it's not
13 clear to me that it was actually incorporated as
14 an exhibit or as testimony. So I just want to be
15 sure that's in the evidentiary record, rather than
16 just in the record of the docket.

17 HEARING OFFICER SHEAN: All right. We
18 will take official notice of the September 25,
19 2002 Sacramento County Board of Supervisors
20 Resolution concerning the consistency of the
21 project with applicable land use or general plan
22 designations and zoning designations.

23 MR. COHN: Then those are all my
24 question for either of these two witnesses. I
25 thought we might end at that. But I would like to

1 just ask Mr. Kelly, just a few questions as
2 rebuttal.

3 HEARING OFFICER SHEAN: As to what?

4 MR. COHN: I have no further questions
5 for these witnesses. I would request just a few
6 questions in rebuttal to Mr. Kelly.

7 HEARING OFFICER SHEAN: Okay. Standby,
8 we're not quite through with these guys. Anything
9 from the Staff?

10 MS. HOLMES: No cross.

11 HEARING OFFICER SHEAN: Ms. Peasha, do
12 you wish to do a redirect, which basically means
13 you can ask questions of your witnesses that go to
14 the questions that were asked of them by Mr. Cohn?

15 MS. PEASHA: One moment please.

16 HEARING OFFICER SHEAN: All right, let
17 me just indicate. The witnesses were not present
18 yesterday when we discussed our coaching
19 admonition. So for right now, I'm going to ask
20 that you not talk back and forth with regard to
21 what you may or may not be able to.

22 MS. PEASHA: I'm concerned with the fact
23 that the planned or the proposed lay down area
24 that we've proposed is not being commented on as
25 far as the significance of the testimonies of my

1 two witnesses are. Therefore, I believe that I
2 would like to know if the consideration of these
3 are pertinent for discussion within the Applicant
4 and CEC?

5 HEARING OFFICER SHEAN: Well they are.
6 And let me just indicate that what has happened
7 here is the Applicant has testified what they
8 initially considered, what they have finally
9 settled on and how they arrived at that
10 determination of their final plan. Most
11 particularly with respect to the effects of how
12 the south of Clay East Road lay down area would be
13 used, okay.

14 Apparently the Staff and the Applicant
15 are now in agreement that that is acceptable on a
16 host of grounds. And your presentation here by
17 both of your witnesses is you think there is a
18 better alternative and you've stated the grounds
19 for that. And now, that's pretty much up to us at
20 the Committee level and ultimately the
21 Commissioner level, the five Commissioners to
22 decide whether or not as an alternative, yours is
23 superior and should be chosen over theirs.

24 MS. PEASHA: Okay. May I ask my
25 witnesses one more question?

1 HEARING OFFICER SHEAN: Yes.

2 MS. PEASHA: Mr. Peasha, in your
3 experience on your job sites as superintendent,
4 what is particularly your basis on communicating
5 with your subcontractors and your workers for
6 dealing with the potential of putting in material,
7 construction parts and any other significant
8 apparatus that would be on your job site?

9 MR. PEASHA: If I understand you
10 correctly, the method that we use, our trailers
11 currently are remote from the site also and we
12 communicate via two way radios.

13 MS. PEASHA: Okay, do your
14 subcontractors and your administrative trailers,
15 they are all prepared with hard documents of the
16 plan site elevations so that using a two way radio
17 system you have no problem and do not have to
18 travel back and forth to the job site from your
19 administrative trailer?

20 MR. PEASHA: Yeah, that's correct. We
21 keep the field contract documents posted with
22 RFIs, any change orders in the field so we can
23 communicate accurately from our office trailers to
24 the field trailers.

25 MS. PEASHA: Approximately how many

1 times a day do you go out to your field site to
2 mitigate or to work out a problem with your
3 subcontractors and contractors and your
4 experienced workers?

5 MR. PEASHA: I would say on an average,
6 about three times a day, maximum or average,
7 excuse me.

8 MS. PEASHA: Oh gosh, it slipped my
9 mind. The access -- on the job that you are on
10 now, the access from your administrative trailer
11 to your construction site is approximately how far
12 from your subcontractors trailers?

13 MR. PEASHA: Uh, well, first off, the
14 subcontractors have their administrative offices
15 next to ours. They also have their field offices
16 and run their projects, their operations the same
17 as we do if that answers your question.

18 MS. PEASHA: Yes I believe that does.
19 I'm -- that wraps me up.

20 HEARING OFFICER SHEAN: Okay.

21 RECROSS-EXAMINATION

22 MR. COHN: Just one additional question.
23 So you do have field trailers?

24 MR. PEASHA: Yes we do.

25 MR. COHN: Thank you.

1 HEARING OFFICER SHEAN: Do you have
2 something, sure.

3 MR. GARCIA: How far are your field
4 trailers or your contractors field trailers?

5 MR. PEASHA: Sorry?

6 MR. GARCIA: How far are your
7 contractors field trailers from your
8 administrative offices?

9 MR. PEASHA: On this particular project,
10 they're approximately half a mile.

11 HEARING OFFICER SHEAN: Enough? All
12 right, that concludes Ms. Peasha's witnesses
13 testimony on land use. Do we have any additional
14 witnesses on that topic? Obviously there are none
15 here from the Staff.

16 MR. COHN: We'd like to present one
17 rebuttal witness very quickly. Matt Kelly who I
18 referred to earlier today.

19 HEARING OFFICER SHEAN: All right, why
20 don't you go ahead?

21 REBUTTAL

22 MR. COHN: All right, Mr. Kelly if you
23 could come up to the table? Were you already
24 sworn in today?

25 MR. KELLY: I was.

1 MR. COHN: Would you please state your
2 name and spell it for the record.

3 MR. KELLY: My name is Matt Kelly.
4 Matt, M-A-T-T Kelly, K-E-L-L-Y.

5 MR. COHN: And what is your job title
6 and what are your duties.

7 MR. KELLY: I am the business manager
8 financial secretary for the Sacramento Sierra's
9 Building and Construction Trades Council. My
10 duties would include representing the building
11 trades in matter of local government and building
12 industry issues.

13 MR. COHN: And could you describe your
14 experience working on construction projects
15 generally.

16 MR. KELLY: Uh, in the 20 years that
17 I've been involved with construction, I've worked
18 on a variety of projects. My experience as a
19 project manager would be limited to
20 telecommunication facilities and low rise office
21 towers.

22 MR. COHN: And are you familiar with lay
23 down areas on construction sites?

24 MR. KELLY: Yes I am.

25 //

1 HEARING OFFICER SHEAN: We're not
2 getting it.

3 PRESIDING MEMBER PERNELL: Could you
4 answer it again with the mic.

5 HEARING OFFICER SHEAN: Okay. I think
6 we're just passed the threshold here. There's no
7 point in trying to even yell into the mic's. So
8 we'll go off the record for the moment.

9 (Thereupon a brief recess was taken due
10 to weather noise.)

11 MR. COHN: Thank you. Mr. Kelly, are
12 you familiar with lay down areas on the
13 construction sites that you've worked on?

14 MR. KELLY: Yes I am.

15 MR. COHN: And approximately how many
16 construction sites?

17 MR. KELLY: Uh, roughly 30.

18 MR. COHN: And in your experience have
19 you ever seen or worked on a lay down area that
20 was more than a mile from the construction site?

21 MR. KELLY: No I have not.

22 MR. COHN: How about a half mile?

23 MR. KELLY: No I have not.

24 MR. COHN: And what do you foresee as
25 problems with a remote lay down area such as the

1 one proposed by Ms. Peasha.

2 MR. KELLY: I see difficulty
3 transporting your construction workers from the
4 area of their parking to the site of the work. I
5 see problems transporting materials, material
6 handling. I would think that you would have a
7 veritable wagon train of forklifts traveling at a
8 very slow speed from your actual work site to your
9 lay down yard. It just, it presents a myriad of
10 problems that would probably be difficult to
11 encompass just sitting here talking about the
12 project.

13 MR. COHN: The witness is available for
14 questions.

15 HEARING OFFICER SHEAN: Ms. Peasha, can
16 I ask a question first? Sir, are you familiar,
17 you apparently are somewhat familiar with this
18 SMUD Cosumnes as an ongoing proceeding at the
19 Energy Commission?

20 MR. KELLY: This is -- yes.

21 HEARING OFFICER SHEAN: Do you have any
22 familiarity with the El Segundo Power Plant
23 project by Dynergy in the City of El Segundo?

24 MR. KELLY: No I don't.

25 HEARING OFFICER SHEAN: So you would not

1 be familiar with their remote worker parking and
2 remote lay down proposals with respect to that
3 project?

4 MR. KELLY: No I would not.

5 CROSS-EXAMINATION

6 MS. PEASHA: Hi, yes, I just have a few
7 questions. First of all, the -- are you familiar
8 with or have you worked on jobs over 100 million
9 dollars?

10 MR. KELLY: I have not.

11 MS. PEASHA: Over 50 million dollars?

12 MR. KELLY: I have not.

13 MS. PEASHA: Over 30 million dollars?

14 MR. KELLY: Yes.

15 MS. PEASHA: Have you worked on power
16 plants?

17 MS. PEASHA: No.

18 MS. PEASHA: Are you -- going back to
19 the proposed map that we have shown, the lay down
20 area for construction would be on the second phase
21 of the CPP site, are you aware of that?

22 MR. COHN: Which diagram are you
23 referring to?

24 MS. PEASHA: The maps that were pre-
25 testimony with my husbands.

1 MR. COHN: Is that, oh the one --

2 HEARING OFFICER SHEAN: This is in Mr.
3 Peasha's testimony.

4 MS. PEASHA: Yes.

5 MR. COHN: Mr. Peasha's testimony, okay.
6 Which for the record has drawings added onto
7 Figure 1-8.

8 MR. KELLY: I'm looking at the drawing
9 now.

10 MS. PEASHA: Okay. We've proposed that
11 the workers parking and administrative trailers
12 are above in the existing Rancho Seco parking lot.
13 The construction lay down area for equipment and
14 materials and subcontractors would be below on the
15 second phase of CPP. Are you aware of that now.

16 MR. KELLY: I can see per your drawing
17 what your intention is, yes.

18 MS. PEASHA: So in your mind would the
19 construction workers once they have been
20 transported to the first phase have any problem
21 getting their construction material and lay down
22 equipment?

23 MR. KELLY: I think your trying to pack
24 an awful lot into that 15 plus or minus acres.

25 MS. PEASHA: The proposed lay down area

1 that CPP recommended was only 20-acres. We've got
2 now, all their cars and their administrative
3 trailers up above on another additional 20-acres.
4 That's given us 35-acres to work with, not just
5 their proposed 20-acres.

6 HEARING OFFICER SHEAN: Ms. Peasha,
7 number one, you're not asking a question. Number
8 two, it's argumentative even if it were.

9 MS. PEASHA: Okay, well --

10 HEARING OFFICER SHEAN: Okay, and you
11 may have gotten just about what you can out of
12 this witness in terms of --

13 MS. PEASHA: -- okay, I just want them
14 to be aware that's what I've proposed on here, not
15 that we would -- that the construction portion of
16 lay down area would be within the second phase
17 proposed CPP Site.

18 HEARING OFFICER SHEAN: Okay.

19 MS. PEASHA: Thank you.

20 HEARING OFFICER SHEAN: Thank you.

21 MR. COHN: No further questions for the
22 witness.

23 HEARING OFFICER SHEAN: All right, thank
24 you sir. I would just ask for the Committee's
25 purposes. We're at the end of the pipeline that

1 usually ends up with a lot of information having
2 been filtered and decision made. There is not to
3 the extent that I can easily find it, any
4 discussion, any alternatives that the Applicant
5 had considered with respect to lay down areas on
6 it's own property.

7 Do you have a witness -- first of all,
8 if you had considered other sites, do you have a
9 witness who can testify to that here?

10 MR. COHN: You're asking whether we have
11 a witness who can testify as to why we don't have
12 a lay down area on the existing Rancho Seco Site?

13 HEARING OFFICER SHEAN: No. Whether or
14 not you considered areas on your property, other
15 than the existing Rancho Seco Site as potential
16 lay down sites?

17 MR. COHN: Yes. We examined a lot of
18 those.

19 HEARING OFFICER SHEAN: All right.

20 MR. COHN: I don't know Kevin, whether
21 you're prepared to.

22 HEARING OFFICER SHEAN: We'd just like
23 to understand the decision making process.

24 MR. COHN: Sure.

25 HEARING OFFICER SHEAN: After we know

1 what other areas you considered. For example and
2 one of my specific questions would be something
3 along or near the western, west of the proposed
4 site?

5 MR. COHN: Oh, yes. Yeah we certainly
6 can have Mr. Hudson attempt to answer that. If
7 necessary we also have Mr. EJ Koford, our
8 biologist and water expert who also was part of
9 that decision making process.

10 HEARING OFFICER SHEAN: All right.

11 REDIRECT

12 MR. HUDSON: Actually in our AFC, in our
13 original AFC application, we had looked at a lay
14 down area both to the west of the CPP Plant Site
15 and the lay down area that we're currently looking
16 at now, south of the CPP Site.

17 After further environmental
18 investigation, it appeared that there are some
19 items called muma mounds. Now I'm not a
20 biologist, so I can't really address what those
21 are or what their significance is. But we were
22 told that the lay down area south of the CPP Site
23 would from an environmental standpoint would be
24 better as a lay down area.

25 In addition, the lay down area on the

1 west side, that we had originally looked at
2 appears to be closer to property that does not
3 belong to SMUD. It's a little but closer to
4 vineyards, it's a little bit closer to, what we
5 call the Frank Loretz property. And it appeared
6 that if there was any activity in that area, it
7 could at that time disturb any activities that
8 were going on in his property. So that was one of
9 the reasons that we decided to pull that and just
10 go with the lay down area on the south of the CPP
11 Site.

12 HEARING OFFICER SHEAN: All right, thank
13 you.

14 MR. COHN: Thank you. I might -- I
15 could ask one additional question that would get
16 into the record a diagram that was actually part
17 of our AFC that explains --

18 HEARING OFFICER SHEAN: Is it already in
19 the record?

20 MR. COHN: -- it's already in the
21 record. I'll just cite it then.

22 HEARING OFFICER SHEAN: Sure.

23 MR. COHN: Figure 2.2-3 of the AFC.

24 HEARING OFFICER SHEAN: And that would
25 be in which topic section?

1 MR. COHN: It's under --

2 MS. JIMENEZ-PRICE: Project description.

3 HEARING OFFICER SHEAN: While we have
4 these witnesses here. An unanswered question in
5 my mind with respect to project description is
6 whether or not, if I understand correct, I guess
7 really having looked at the FSA, you have
8 essentially two parallel sets of towers and
9 transmission lines. Is that correct?

10 MR. HUDSON: That's correct.

11 HEARING OFFICER SHEAN: All right. So
12 are they single circuit each or double circuit
13 lines on each tower?

14 MR. HUDSON: There is a double circuit
15 line on one tower and a single circuit on the
16 second set of towers, yes.

17 HEARING OFFICER SHEAN: Okay. And are
18 those three circuits to be constructed in Phase-1
19 or --

20 MR. HUDSON: Yes.

21 HEARING OFFICER SHEAN: -- so all the
22 transmission line are part of Phase-1?

23 MR. HUDSON: Uh, yes.

24 HEARING OFFICER SHEAN: So -- and does
25 that essentially create a redundancy for Phase-1

1 and a surplus carrying capacity Phase-1, which
2 would then be partially used if Phase-2 is
3 constructed?

4 MR. HUDSON: I'm a mechanical engineer,
5 not an electrical engineer. But as it's been
6 explained to me, it provides greater system
7 reliability.

8 HEARING OFFICER SHEAN: All right, thank
9 you. It was just something that was not clear
10 from any of the documentation I've read up to this
11 point.

12 MR. TAYLOR: We can ask Mr. Flake to
13 give his --

14 MR. COHN: Yes, Mr. Shean, our project
15 engineer can answer that last question a little
16 more definitively if the would help.

17 HEARING OFFICER SHEAN: No, it really
18 wouldn't help. I just wanted to know whether both
19 sets of towers are going to be constructed for
20 Phase-1 and apparently the answer to that is yes.

21 MR. COHN: Yes.

22 HEARING OFFICER SHEAN: All right. That
23 appears to take care of all the substantive areas
24 that we've scheduled for today. Is that correct
25 from the Applicants point of view?

1 MR. COHN: Yes.

2 HEARING OFFICER SHEAN: And from the
3 Staff?

4 MS. HOLMES: Yes.

5 HEARING OFFICER SHEAN: And Ms. Peasha?
6 Okay.

7 MS. PEASHA: Although I do, since my one
8 witness, which may have been from an emergency
9 because he is a Sergeant for the Police Department
10 of Lodi, didn't show, I would like to put his
11 testimony into public record.

12 HEARING OFFICER SHEAN: Okay, that would
13 be the -- I know I have it, standby. Stephan
14 Carillo's?

15 MS. PEASHA: Steve Carillo, yes Sir.

16 HEARING OFFICER SHEAN: Uh, March 7,
17 2003?

18 MS. PEASHA: Yes Sir.

19 HEARING OFFICER SHEAN: Essentially
20 letter with regard to traffic and transportation.
21 We'll take that as public comment at this point.

22 MR. COHN: No objection.

23 MS. PEASHA: Can I ask one question
24 also? In further testimony hearings, is it
25 applicable for police officers, fire fighters to

1 give evidence without pre-testimony?

2 HEARING OFFICER SHEAN: Well if your --
3 okay.

4 MS. PEASHA: Because of their --

5 HEARING OFFICER SHEAN: Okay, let me say
6 this. I think we discussed this. If you have an
7 officer different from Mr. Carillo who would
8 testify essentially to the same substantive
9 matter. We can substitute that person, given the
10 fact that police officers, highway patrolmen and
11 others have an important public service that
12 they're performing. And if they're available to
13 give us essentially the same information, that's
14 all right.

15 MS. PEASHA: Thank you.

16 HEARING OFFICER SHEAN: All right. Now
17 we have sort of our gargantuan housekeeping task
18 to do, which is to take into the record those
19 sections of -- those topics which have not been
20 contested and for which no one has asked to have
21 witnesses appear. So why don't we start, as we're
22 showing here with the Applicant and it's AFC Data
23 Responses and other materials.

24 MR. COHN: Actually, Mr. Shean, the --
25 all of the exhibits, including the AFC Data

1 Requests, all the things that were listed in our
2 exhibit list, which was Exhibit B, or appendix B
3 to our group one testimonies has already been
4 admitted into evidence through the testimony of
5 Mr. Taylor and Mr. Hudson.

6 In addition, we do have testimony and
7 declarations in uncontested areas. Mr. Bard,
8 Cultural Resources, Mr. Pennington, Gas Line
9 Supply, Mr. Lae, Geological, Ms. Carrasco, Land
10 use, Mr. Fisk, Paleantological, Mr. Lo, Public
11 Health, Mr. Carrier, Socioeconomics, Mr. Butler in
12 T-Line Safety and Nuisance and Transmission System
13 Engineering, Ms. Parker in Waste Management and
14 Ms. Danby in Worker Health and Safety.

15 And we would like to move admission of
16 all of those additional testimonies and resumes at
17 this time.

18 HEARING OFFICER SHEAN: Okay, is there
19 objection to admission of those enumerated items
20 of testimony?

21 MS. PEASHA: Mr. Carillo has arrived.

22 HEARING OFFICER SHEAN: Sorry?

23 MS. PEASHA: Mr. Carillo has arrived.

24 HEARING OFFICER SHEAN: Oh fine, okay.

25 Let's just take care of this detail?

1 UNIDENTIFIED SPEAKER: I believe we
2 indicated we had some questions on the worker
3 safety?

4 HEARING OFFICER SHEAN: Okay, all right.
5 Without objection, those will be admitted.

6 (Thereupon, the above-referenced
7 documents, Applicant's Exhibits
8 were received into evidence.)

9 HEARING OFFICER SHEAN: Worker and Fire
10 Safety is your area?

11 (Therefore a brief discussion was held
12 off the record.)

13 HEARING OFFICER SHEAN: First of all, we
14 were hoping that perhaps the Harold Fire Chief
15 could be here today. He has not been able to be
16 here.

17 MR. COHN: That's correct. I forgot to
18 speak to the earlier in the day. In response to
19 the Committee's questions about fire safety as
20 well as response to hazmat spills. He was not
21 available today, Mr. Hendrikson, the Chief of the
22 Harold Fire Department.

23 So at the next scheduled hearing, what
24 we'd like to do is bring him. And because hazmat
25 response is actually a coordinated response

1 involving multiple agencies, we'd like at that
2 time to present the Fire Chief from Harold, along
3 with potentially Galt and I believe it's City of
4 Sacramento Station 7, or at least the Station that
5 is responsible for hazmat throughout the County.

6 PRESIDING MEMBER PERNELL: So you'll
7 present them all at one time?

8 MR. COHN: Correct.

9 HEARING OFFICER SHEAN: Okay. All
10 right, I think then if I understand correct, as
11 far as the Applicant's concerned, except for the
12 topic areas that are reserved for subsequent
13 hearings, you have the record, your materials into
14 the record to the extent that you desire to have
15 that.

16 MR. COHN: If you're including the ones
17 I just offered, yes.

18 HEARING OFFICER SHEAN: We are, yes.
19 Okay, turn this way and see if we have done
20 similarly for the staff.

21 MS. HOLMES: I have a couple of
22 questions about whether you want certain sections
23 of the FSA admitted at this point. Yesterday you
24 indicated that you wanted to ask questions, you
25 may want to ask questions of Staff's traffic and

1 transportation witness who was not available
2 today. If you still have questions.

3 HEARING OFFICER SHEAN: No.

4 MS. HOLMES: No questions. And then
5 similarly, Staff's testimony on workers safety and
6 fire protection, which addresses emergency
7 response did not come in yesterday. We have a
8 declaration of the witness who prepared that
9 testimony. If you don't have -- it sounds to me
10 as though you believe that your questions will be
11 answered by the witnesses that SMUD plans to
12 present. If that's the case, then I would include
13 those sections in the evidence that we have
14 admitted today.

15 HEARING OFFICER SHEAN: Okay, let's just
16 make sure we've got -- do have a running list.

17 MS. HOLMES: Well I think perhaps what
18 might be easiest to do is to have Ms. Chew sworn
19 and have her run through the sections that are
20 going to be admitted. She also prepared some of
21 them and she hasn't testified. So that might be
22 the easiest way to proceed.

23 HEARING OFFICER SHEAN: All right.
24 Were you previously sworn today?

25 MS. HOLMES: She was sworn yesterday.

1 HEARING OFFICER SHEAN: Oh, okay.

2 MS. HOLMES: Ms. Chew could you please
3 provide your name and spell it for the court
4 reporter please?

5 MS. CHEW: My name is Kristy Chew, it's
6 K-R-I-S-T-Y C-H-E-W.

7 MS. HOLMES: And could you please
8 explain what your responsibilities with respect to
9 this project are?

10 MS. CHEW: I am the project manager
11 overseeing the production of the Final Staff
12 Assessment.

13 MS. HOLMES: So it would be correct to
14 say that both the FSA and the 312 Filing of
15 Staff's were prepared under your direction?

16 MS. CHEW: Yes they were.

17 MS. HOLMES: And do both the FSA and the
18 March 12th filing contain declarations from all
19 the witnesses who prepared testimony but have not
20 testified at these proceedings?

21 MS. CHEW: Yes they do.

22 MS. HOLMES: And do the facts contained
23 in your testimony for this part of the FSA, are
24 they true and correct to the best of your
25 knowledge?

1 MS. CHEW: Yes they are.

2 MS. HOLMES: And do the opinions
3 contained in your testimony contained within the
4 FSA represent your best professional judgement?

5 MS. CHEW: Yes it does.

6 MS. HOLMES: And Mr. Shean, do you want
7 us to separately identify the areas that are
8 coming in by declaration, as Mr. Cohn did, or do
9 you think it's simply sufficient --

10 HEARING OFFICER SHEAN: Why don't we it
11 do it by exclusion, those that are not Biological
12 Resources and Alternatives, do you have something
13 more?

14 MS. HOLMES: No.

15 HEARING OFFICER SHEAN: Okay.

16 MS. HOLMES: Then with that I would move
17 the admission of those sections of the FSA and the
18 312 Filing.

19 HEARING OFFICER SHEAN: Is there
20 objection?

21 MS. PEASHA: Yes, my witness, Mr.
22 Carillo has shown and if he is allowed to do his
23 short testimony I would like to admit it right at
24 this point.

25 HEARING OFFICER SHEAN: Okay, we're

1 going to do that just after this little
2 housekeeping detail. And I will note that you had
3 previously filed a motion to have the, what I will
4 call Water Resources Topic put over and I think we
5 can admit it now, but have it discussed at a
6 subsequent hearing.

7 MS. PEASHA: And also the land use for
8 the existing vista report that I reviewed
9 yesterday.

10 HEARING OFFICER SHEAN: Well we may need
11 further explanation on that.

12 MS. PEASHA: The vista report that
13 CH2MHILL had ordered regarding underground leaking
14 -- leaking underground storage tanks.

15 HEARING OFFICER SHEAN: Yes.

16 MS. PEASHA: That were on the property.
17 I want to make sure that that, that is
18 significantly investigated to show that if there
19 is still a tank there where they are proposing to
20 put their site.

21 MS. HOLMES: I believe Staff provided
22 it's testimony on that subject yesterday through
23 Mr. Ringer who indicated that both the original
24 report that was provided with the AfC and the
25 subsequent response to a CEC Staff Data Request

1 indicated that there is no concern about leaking
2 underground storage tanks at the CPP site. If Ms.
3 Peasha had questions of Mr. Ringer, she needed to
4 ask them at that time.

5 MS. PEASHA: I asked Mr. Redeker --

6 HEARING OFFICER SHEAN: Okay.

7 MS. PEASHA: -- at that time.

8 HEARING OFFICER SHEAN: I know you did
9 and I think this merely may be a matter of that
10 you're not satisfied with the information that you
11 were able to get. But the parties, whether the
12 Applicant or the Staff believe they have given you
13 everything that they have. And that now, that
14 issue is basically contested with your view that
15 something more needs to be done. And their view,
16 respective views that it does not. We're not
17 necessarily going to get to a solution. But we
18 understand your position and we understand their
19 respective positions.

20 And let me indicate further that as part
21 of their determination that they had given you
22 their best view, the Committee had discussed both
23 with the Applicant and with the Staff, but most
24 particularly with the Applicant, asked them their
25 willingness to conduct an underground survey using

1 magnetometers or some other device to attempt to
2 assure that there was no storage tank below the
3 retention basin. And also use the excavators
4 skills to determine whether or not the
5 discoloration of soils or any other thing that
6 would disclose contamination of the soil while
7 they were excavating for the retention basis. If
8 any of that disclosed the potential that there was
9 a tank there, that remediation would take place to
10 remove the tank and any contaminated soils to
11 assure that the percolation of the water that is
12 going to be contained in their retention basin
13 does not transport any contaminants into ground
14 water.

15 MS. PEASHA: I thank you for that. I
16 was unsure if I had to reiterate that for --

17 HEARING OFFICER SHEAN: So I don't know
18 if that is sufficient to satisfy you that is at
19 least where we understand things stand today.
20 That they have accepted that they will do that.

21 MS. PEASHA: Okay, that's -- I just want
22 to reiterate that for my own knowledge if I had to
23 do it now.

24 HEARING OFFICER SHEAN: Okay. And I'm
25 and not sure whether we asked at the time that a

1 condition be prepared to that effect?

2 MR. COHN: You did not, but I was just
3 going to offer that up along with the other two,
4 that Staff and Applicant will work on with the
5 other parties.

6 HEARING OFFICER SHEAN: Okay. Now, I'm
7 not sure whether I was stopped in mid-sentence,
8 but is there objection then to the admission of
9 the enumerated Staff FSA Sections, including their
10 errata and amendments with the exception of
11 Biological Resources and Alternatives? All right,
12 hearing none, they are admitted.

13 (Thereupon, the above-referenced
14 documents, Staff's Exhibits were
15 received into evidence.)

16 HEARING OFFICER SHEAN: Now we can get
17 to Officer Carillo. Ms. Peasha, while your
18 looking, why don't I ask the court reporter to
19 swear in your witness.

20 MS. PEASHA: Certainly.

21 HEARING OFFICER SHEAN: If you'll please
22 stand Sir and our reporter here, will administer
23 the oath.

24 Whereupon,

25 STEPHAN CARILLO

1 was called as a witness herein and, having been
2 first duly sworn, was examined and testified as
3 follows:

4 DIRECT EXAMINATION

5 MS. PEASHA: Mr. Carillo will you state
6 your name and spell it for the record.

7 MR. CARILLO: Stephan Carillo, Stephan
8 S-T-E-P-H-A-N.

9 MS. PEASHA: And the pre-testimony on
10 transportation, traffic and transportation that
11 you provided yesterday, is there any corrections
12 to that and your resume?

13 MR. CARILLO: No.

14 MS. PEASHA: Could you just -- what's
15 the other one?

16 HEARING OFFICER SHEAN: Okay, let me
17 indicate that previously we admitted this as
18 comments, since the witness is here now, is there
19 objection to his testifying as an expert within
20 the scope of his testimony?

21 MR. COHN: No.

22 HEARING OFFICER SHEAN: All right then,
23 he is so qualified. And is the objection to the
24 admission now into evidence of his March 7th, 2003
25 letter? All right, hearing none it is admitted.

1 (Thereupon, the above-referenced
2 document, Intervenor's Exhibit was
3 received into evidence.)

4 MS. PEASHA: Mr. Carillo could you just
5 state for the Committee and everyone else in
6 attendance your current job and experience as --
7 what you currently are doing?

8 MR. CARILLO: I'm a Police Sergeant with
9 the Lodi Police Department in charge of the
10 Traffic Division and Patrol Unit. I've been with
11 the Traffic Division, at which time I was also a
12 MAIT investigator, which is Major Accident
13 Investigation Team.

14 I'm an accident re-constructionalist.
15 Used to be a traffic officer for years, riding a
16 motorcycle, writing tickets. And I've been in
17 police work since 1983 and prior to that I was a
18 fire fighter from '81 to '83. And pretty much the
19 same type of job.

20 MS. PEASHA: And your residence, Mr.
21 Carillo is where?

22 MR. CARILLO: 13630 Clay East Road.

23 MS. PEASHA: Okay, can you give us your
24 opinion on operations and hazardous material
25 deliveries to the proposed CPP Site once

1 construction is completed there for the first
2 phase and any other pertinent information on that
3 roadway?

4 MR. CARILLO: Well my biggest concern
5 first, was that upon the deliveries and removal of
6 any product or transportation of product to the
7 site is that the road is approximately 22-feet,
8 6-inches and the reason I say approximately is
9 that the road continuously changes in size. There
10 is absolutely no shoulder to the north and no
11 shoulder to the south.

12 There is an approximately 3-foot ravine
13 or edge, road edge that goes down towards the
14 vineyard and then down towards the majority of our
15 homes. It's a drainage ditch. Disabled vehicles
16 have no place to pull over. There is driveways
17 that obviously lead out onto that street and
18 children have to stand there in their driveways to
19 collect the bus. There is no bus stop. All of
20 the kids have to actually stay right there on the
21 street or in the driveways.

22 Also, my concern is the fact that kids
23 go from house to house trying to get to buses. A
24 bus might drop them off by Justy and they have to
25 walk down. The vineyard is not an option, as the

1 vineyard owner is very strict about trespassing.
2 The signs are everywhere. He's called the
3 Sheriff's Department on numerous occasions on
4 different people being in the vineyard, not
5 including kids that are just out playing, riding
6 their bicycles on that road. It's already
7 dangerous enough with them on the road in the
8 traffic that's already going back and forth to and
9 from their residences.

10 As we all know, in the winter months,
11 the fog density is extremely high out in that
12 area. To the point where they have what's called
13 the late day for school. If you can't see your
14 fence, the bus will be an hour later, giving you a
15 chance to -- the bus a chance to honk and the kid
16 to go out to that road.

17 Well that doesn't take into effect that
18 people are trying to pull out onto the road from
19 their driveways or from Justy or from Kirkwood.
20 The fog, and I have no idea way, but the fog is
21 extremely thick in that one area. I don't know if
22 it's from the vineyards or the old cattle fields,
23 or what.

24 In fact, it might be, as we all know the
25 speed limit on an uncontrolled road like that out

1 in the country is 55 miles an hour. Fifty five,
2 you know seeing stats when you're living there,
3 granted it's still below the freeway speed limit.
4 But you know we have the emotions of living there
5 that make the speed seems a lot faster than it
6 really is.

7 We already have deliveries there. What
8 I mean by that is UPS trucks that deliver to the
9 homes, the school busses and we also have a rural
10 mail carrier. That's a lady that drives around in
11 a little Subaru wagon that drives on the right
12 hand side that stops at every mail box along that
13 road.

14 Now granted, like I said before, there
15 is no shoulders on the road, so she's taking up
16 the westbound lane of that road. We have, we do
17 have a couple of cattle trucks that go through
18 there seasonally to pick up cattle for slaughter,
19 but that's just been quite a bit reduced because
20 of the cattle fields that have left and the
21 vineyards that have come.

22 But when the vineyards came, so have the
23 vineyard workers. And I don't know if you've ever
24 seen the way they park and the way they drive into
25 those areas and out of those areas, but that's all

1 dirt roads. And they're parked right off the
2 shoulders of the road on the north side of Clay
3 East.

4 Those are my concerns. Those were my
5 concerns when this all first started out.
6 Granted, the Fire Department was one of my biggest
7 concerns, having been in fire service for years
8 and being part of hazardous material team, I know
9 for a fact that Harold's limitations for the fire
10 service are, you know, quite severe. It's a
11 Volunteer Fire Department with a Fire Chief.

12 So professionally speaking I just, it's
13 hard for me to see deliveries and removal and
14 possibly, you know, anything else that might be
15 going up that road. And that road is smaller than
16 your average city street. I mean it's smaller
17 than streets in Galt and yet the speeds are two to
18 three times that of a residential street.

19 MS. PEASHA: Just one other question.
20 The intersection of Clay East, 104, Clay Station
21 and the dirt road they consider part of Clay
22 Station on the north side, is there adequate
23 visual distances to see oncoming traffic,
24 especially in our fog, on a foggy day?

25 MR. CARILLO: Well Clay Station, the

1 north Clay Station, not the dirt road access that
2 goes back to the old Silva property, but the
3 actual, I'm sorry the south side of 104. When you
4 stop there, you notice that there is a zero
5 property line there. It's the old ranch house
6 that's been there since the '30's. The problem
7 with that is when you come up 104 to get on Clay
8 East Road to continue on, if you've ever noticed,
9 there is a little dip.

10 Well, that little dip right there, not
11 only can you not see coming off Clay Station and
12 you know, you have to creep out, which by law,
13 they're the ones that are responsible the ones
14 that are entering the through traffic. But right
15 there in that intersection is where the large,
16 what are they called now, the Phone Company.

17 MS. PEASHA: Yeah.

18 MR. CARILLO: SBC or whatever they are
19 now? That's where they park their large trucks.

20 MS. PEASHA: Sub-station, yes.

21 MR. CARILLO: And that's their sub-
22 station right there. When you start increasing
23 traffic in that area, you'll notice that a lot of
24 people have to slow down or stop because of that
25 truck. Not including any cattle trucks that might

1 have pulled over there to figure out where they're
2 at or anything like that. Whereas with 104, if
3 you continue on 104, it maintains a gradual bend
4 and there's absolutely no undulation in the road
5 at that point. And you don't have to deal with
6 anything off of Clay East Road.

7 If you've ever driven up that road at 55
8 miles-an-hour, when you exit onto Clay East Road,
9 you'll immediately feel your car pull to the
10 right, because of the way the road goes, your
11 right-side tire goes off first, then your
12 left-side tire and it gives you that, uh, we've
13 seen it. I mean there has been numerous accidents
14 down there. Granted, those accidents were, in
15 fact, caused by the people coming off of Clay
16 Station, or people turning onto Clay Station with
17 right of way violations being violated by them.

18 But again, it's just one of those
19 intersections that's extremely hazardous and it
20 gets worse as it gets to be night or winter in the
21 fog.

22 MS. PEASHA: I have no further questions
23 for my witness and he can be cross-examined.

24 HEARING OFFICER SHEAN: Mr. Carillo, let
25 me just ask you, because earlier in the day we had

1 this as a topic and we had a fairly extensive
2 discussion, whether or not you have seen any of
3 the conditions of certification that have been
4 recommended by the Staff and have been agreed to
5 by the Applicant with respect to a traffic control
6 program for both, well, first, for construction
7 traffic and the kind of measures that are proposed
8 there.

9 I will tell you that the Committee is
10 extremely concerned, mostly about the safety of
11 school children. Because while the road beds and
12 other things like that may be capable of carrying
13 the traffic, what we do not want is either through
14 the increase to traffic or the increase in traffic
15 combined with adverse weather to find out that we
16 have a significant problem because a child has
17 been injured or killed. Whether or not waiting
18 for the bus, on the bus while the bus is stopped
19 in the road or other things such as that.

20 So are you aware of any of the measures
21 that have been discussed so far?

22 MR. CARILLO: No Sir.

23 HEARING OFFICER SHEAN: Okay. You've
24 raised a couple of things and one had to do with
25 speed. And I believe actually on Clay East Road

1 on the right-hand side there is a posted 55 mile-
2 an-hour sign. In your experience is there -- is
3 it appropriate or lawful to have a reduced speed
4 when children are present on a road such as Clay
5 East Road?

6 MR. CARILLO: Out in the county like
7 that, no.

8 HEARING OFFICER SHEAN: Excuse me.

9 MR. CARILLO: Out in the county like
10 that there is no vehicle code that allows for the
11 reduced speed. There are suggested reduced
12 speeds, which you'll notice on some of these
13 curves, that's the yellow street signs that say
14 50, 45, well those are suggested speeds. They're
15 not enforceable laws. They just try and get
16 people to slow down so they can make the turn
17 safely.

18 But in that area, there is no school.
19 The amount of homes that face that street don't
20 fall underneath the vehicle code to reduce the
21 speed. The County of Sacramento, I don't see
22 coming out here to do a major survey for Clay East
23 Road to go after it with a radar enforceable
24 survey.

25 HEARING OFFICER SHEAN: But a cautionary

1 as opposed to a mandatory --

2 MR. CARILLO: Right.

3 HEARING OFFICER SHEAN: -- change in
4 speed might be possible, is that right?

5 MR. CARILLO: I mean you can, you can
6 always suggest, but again, you don't have any, I
7 don't know what you call it, you don't have any
8 teeth, it's non-enforceable.

9 HEARING OFFICER SHEAN: Uh, I drove that
10 road this morning and while I was looking at a lot
11 of different things, I am trying to recall whether
12 or not the edges of the road have a painted white
13 line, do you recall?

14 MR. CARILLO: Sometimes. During the
15 summer you'll start to see the white lines a
16 little bit more because the County of Sacramento
17 comes through and sprays roundup. But up until
18 that point, all the weeds start to grow up over
19 that white line and it gives you a false sense of
20 the road edge.

21 And what I mean by a road edge. When
22 you drive through some areas a road edge is where
23 the asphalt stops. And then you'll see a
24 shoulder, rock shoulder. There is none. There is
25 an end of a road edge and then there is a ditch on

1 both sides. Twenty-two-feet, 6-inches is the
2 width of the road and that's including the little
3 bit of rock you see on the edge, that's it,
4 22-feet, 6-inches.

5 HEARING OFFICER SHEAN: Uh, and I'm
6 trying also to recall and I don't believe there
7 were any reflectors designating the center line?

8 MR. CARILLO: No, there is no.

9 HEARING OFFICER SHEAN: Now in your
10 opinion, would either of those two things, either
11 reflectors on the center line or semi-reflective
12 white paint at the road edge aid in the safety of
13 the use of that road?

14 MR. CARILLO: No, uh, in my opinion, no.

15 HEARING OFFICER SHEAN: Okay.

16 MR. CARILLO: And the reason I say that
17 is, you can have white lines, you can have fog
18 lines, you can have reflective markers, but you
19 still have the same width of a road. You still
20 have the driveways that are visible and you still
21 have people walking across the street to get their
22 mail, because the mail is not delivered on our
23 side of the street, it's delivered on the north
24 side of the street. Why, I don't know, but that's
25 just the way the mail routes were set up years

1 ago.

2 HEARING OFFICER SHEAN: Thank you. Do
3 you have anything?

4 CROSS-EXAMINATION

5 MR. COHN: Yes I do. Let me make sure
6 my mic's on here. Good afternoon, my name is
7 Steve Cohn, Counsel for Sacramento Municipal
8 Utility District. I assume your here in your
9 capacity as a private citizen rather than as a
10 representative of the Lodi Police Department?

11 MR. CARILLO: Correct.

12 MR. COHN: All right. In your
13 testimony, you state and I'll quote "are we to
14 believe that all of these large trucks going up
15 and down Clay East Road won't be a danger when
16 people are trying to get out of their driveways to
17 get to work or slowing in the evening to pull into
18 their driveways." How many trucks do you believe
19 there will be a day or a week from this project?

20 MR. CARILLO: More than there is now.

21 MR. COHN: But do you have some
22 assumption?

23 MR. CARILLO: No.

24 MR. COHN: Now if I were to tell you
25 that there were only seventeen and a half round

1 trips counting all cars, trucks, everything
2 associated with this plant for operations would
3 you still have this concern?

4 MR. CARILLO: Yes. Because it's an
5 increased traffic.

6 MR. COHN: Okay.

7 MR. CARILLO: We're increasing traffic,
8 granted, it's only seventeen and a half round
9 trips, but it's an increased traffic for a road
10 that was built to barely withstand the population
11 at the time.

12 MR. COHN: Are you aware of what the
13 current traffic counts are on that road?

14 MR. CARILLO: No.

15 MR. COHN: Would it surprise you to know
16 that it's close to 800 a day?

17 MR. CARILLO: No, but that's residents.
18 Those are people that are aware of the conditions.

19 MR. COHN: Uh, okay, residents. Now are
20 you aware that there are also trucks currently
21 going down that road, such as fertilizer trucks,
22 ammonia trucks, cattle trucks? And are you
23 assuming when you make the statement that I
24 quoted, that we would be having construction
25 traffic come down that road also?

1 MR. CARILLO: No.

2 MR. COHN: Okay, so you understand that
3 in response to community concerns, we have
4 rerouted the construction access road so that it
5 does not go through this area?

6 MR. CARILLO: Right, correct.

7 MR. COHN: And are you testifying that
8 it would be illegal to use the road at 22-foot 6
9 or just inadvisable in your opinion?

10 MR. CARILLO: Inadvisable, it's not
11 illegal.

12 MR. COHN: All right, so there's no
13 vehicle code issue here?

14 MR. CARILLO: Not at this time. But we
15 know how the State changes those laws day in and
16 day out, so.

17 MR. COHN: Right.

18 MR. CARILLO: The vehicle codes pretty
19 thick.

20 MR. COHN: Well, of course SMUD will
21 comply with all vehicle code provisions. All
22 right, no further questions.

23 HEARING OFFICER SHEAN: Anything from
24 the Commission Staff?

25 MS. HOLMES: No questions.

1 HEARING OFFICER SHEAN: Do you have any
2 redirect of your witness?

3 MS. PEASHA: No, no redirect thank you.

4 HEARING OFFICER SHEAN: Thank you. Mr.
5 Carillo we appreciate your coming.

6 MR. CARILLO: Thank you.

7 HEARING OFFICER SHEAN: All right, am I
8 correct now that all of the testimonial aspects of
9 our evidentiary proceedings that we have scheduled
10 have been completed? At least as far as the
11 Applicant is concerned?

12 MR. COHN: Yes for this set of hearings,
13 yes.

14 HEARING OFFICER SHEAN: For this phase?

15 MS. HOLMES: Yes.

16 HEARING OFFICER SHEAN: Same for the
17 Staff and same for Ms. Peasha.

18 MS. PEASHA: Yes.

19 HEARING OFFICER SHEAN: Well,
20 hallelujah. All right, what we have shown on our
21 schedule is a reserve time to discuss the status,
22 if known of the biology issues as well as public
23 comment. What I think we'll do now, is if there
24 are members of the public who are here, who would
25 like to speak, we'll open the mics and hear from

1 you before we get to this last housekeeping
2 detail. Is there anyone here from the public who
3 would like to speak?

4 All right, well, are you going to
5 testify at the biology section? And what is it
6 you want to comment on at the moment?

7 MS. MOORE: Do I have to tell you before
8 I say it?

9 HEARING OFFICER SHEAN: You can sit
10 down.

11 MS. MOORE: After hearing the various
12 testimony today, as a mom, the school bus issue
13 concerns me a lot and I just, I just don't think
14 sometimes that people that don't live out in our
15 community understand the -- how school busses load
16 and unload and kids are flagged across the street
17 and it's pretty precarious, especially in the fog.
18 And I just wanted to --

19 HEARING OFFICER SHEAN: Okay, I think
20 that's appropriate for you to tell us. If that's
21 something that you have experience with, why don't
22 you go ahead and do that.

23 MS. MOORE: I just want to share that
24 there is a real etiquette built up between the
25 people that live here and the school buses about

1 when do you pass a bus, when do you not pass a bus
2 and generally, you wait for the red lights. You
3 pull up behind the bus as they're going to pick up
4 students. You wait for them to load the students
5 and for the red lights to stop flashing. And that
6 means the students are seated. And then the bus
7 driver pauses for just a minute to allow the one
8 or two cars stacked up behind him to go around him
9 and move on.

10 That's kind of standardly how it's done.
11 A couple years ago I was driving my kids to school
12 and I was coming down Alta Mesa Road and it was a
13 little bit of a foggy day and the bus had stopped
14 and I was right behind the bus.

15 And a car coming the other direction
16 didn't see the red lights and went whizzing by the
17 school bus and by me while the red lights were
18 flashing and the students were still getting on
19 the bus. At the same point a guy came up behind
20 me and didn't see the red lights or me or the bus
21 and in order to avoid going into the left lane and
22 having head on with the other guy who didn't
23 realize what the heck was going on, he went around
24 the right side of the bus, missing the students
25 and their mothers that hadn't gotten on the bus or

1 out of the way and taking out two mail boxes.

2 And I just want to share that that's the
3 kind of scenario that does happen with these
4 school bus pickups. It's very, very hazardous
5 already. I drive my kids to school every day
6 because I think school busses are that dangerous.

7 HEARING OFFICER SHEAN: Okay. I think
8 if you'll recall, the questioning we had with
9 respect to that, this is exactly the type of thing
10 that we have concern about with the school busses
11 stopped in the road whether it's 104 or Clay East
12 Road and traffic coming up behind it, probably in
13 a foggy weather condition and either colliding
14 with the back of the bus or taking an
15 inappropriate evasive maneuver and either hitting
16 another car or hitting a pedestrian.

17 MS. MOORE: Yeah, and in summary I think
18 that you can look at things like, yeah, there's
19 900 cars already or 800 and we're only talking
20 about another 17 vehicle trips, any increase is an
21 increase in an already dangerous situation. And
22 if it's avoidable I think that that's the better
23 choice. Thank you.

24 HEARING OFFICER SHEAN: Thank you.

25 PRESIDING MEMBER PERNELL: Mr. Shean, I

1 might just for the record add that it is a State
2 law that you cannot or should not pass a school
3 bus when it's red lights are flashing and the stop
4 signs or out. So even though it's a State law and
5 you know, people do silly things sometimes. I
6 don't know that we prevent all of those, but I
7 think you have a valid point that every parent and
8 kid need to be -- and especially the bus driver
9 needs to be conscious of those types of incidents
10 that you're talking about.

11 HEARING OFFICER SHEAN: Well actually,
12 maybe we could ask Officer Carillo to come back up
13 and answer a question. Do you know of signage
14 that is used either for an area that would be
15 designated for, because my recollection makes me
16 think I've seen such a thing, that essentially
17 says your in a school bus pick-up zone and that
18 there is no passing of a bus that has it's light
19 going.

20 MR. CARILLO: They have what's called
21 school loading zones, but those are in the
22 districts of the school and the areas of the
23 school. They're usually not in the areas of --
24 you'll see sometimes signs that will say, you
25 know, slow children. But there is no signage,

1 usually outside of school district areas or school
2 zone areas that have those type of verbiage.

3 HEARING OFFICER SHEAN: Or language to
4 the effect that you have to stop behind a school
5 bus that has flashing lights?

6 MR. CARILLO: No, that's in just the
7 little California vehicle code cheat sheet book.
8 And that's, like Mr. Pernell said, yeah the laws
9 are for that and they really are. But I don't
10 know how many streets that we all live on where
11 our kids get on the bus and when you have
12 outsiders driving through that area they don't
13 know that -- they don't know what the hell is
14 going on.

15 PRESIDING MEMBER PERNELL: They don't
16 always abide by the law.

17 MR. CARILLO: Yeah, they don't
18 understand what's going on and they're not
19 familiar with those types of environments.
20 Especially when your going down 104 or Clay
21 Station, Clay East, where the speed limit is 55,
22 you don't expect a bus to stop. You know, going
23 through a 25 zone where it's residential you do.

24 HEARING OFFICER SHEAN: Okay. Thank you.
25 Well, let me just say, this is something we are

1 extremely concerned about and I think we would all
2 pray that we never get a report that a student has
3 been injured or killed as a result of this. And
4 we want to take every possible and feasible
5 measure to make sure that that doesn't happen.

6 So I think not only do we think we've
7 written the conditions as best we can at the
8 moment, but we expect that the local residents
9 will, if they see that these conditions are not
10 working satisfactorily, we'll get back on it and
11 see if there's something in addition that can be
12 done.

13 Obviously a yahoo driver cannot be
14 anticipated and covered for every contingency like
15 that, but we want to try to do everything we can
16 to make sure that this project and this
17 certification and this Commission's review of the
18 project provide as much safety as we can for the
19 local school children.

20 So with that, since we're closing in on
21 the bewitching hour. We had reserved some time
22 for the discussion of the status of biology, so
23 why don't we go initially to the Applicant and
24 hear what you have to say.

25 MS. LUCKHARDT: Okay at this point, the

1 wet land delineation has been accepted as complete
2 by Army Core, they have actually finally initiated
3 consultation with U.S. Fish and Wildlife Service
4 and the National Marine Fishery Service. Of
5 course we were not waiting for the consultation to
6 be initiated. And we believe based on
7 conversations with both the Service, U.S. Fish and
8 Wildlife Service and National Marine Fishery
9 Service that they have accepted the Biological
10 Assessment, which includes all of mitigation
11 required for this project for biology.

12 So that has been completed. We have
13 submitted the 404 application. We have submitted
14 the 401 application to the Regional Board. Let's
15 see, we've also submitted the 2081 Incidental Take
16 Permit to Fish and Game. They asked for some
17 additional information and that will be provided
18 next week. We've obtained draft 1600
19 authorization. And so we believe that we have
20 satisfied all the requirements in order to get the
21 FSA on biology issued.

22 Some of those requirements included
23 identifying the mitigation. That was one of the
24 biggest ones. And getting the -- I'm sorry, my
25 voice is going, and finalizing the wet land

1 delineation. And both of those things are now
2 complete.

3 HEARING OFFICER SHEAN: All right.

4 MS. HOLMES: Can I ask a question at
5 this point?

6 HEARING OFFICER SHEAN: Yes.

7 MS. HOLMES: When did you talk to U.S.
8 Fish and Wildlife Service. The reason I ask that,
9 I'll just state it, is that we received a message
10 from U.S. Fish and Wildlife Service yesterday
11 saying that the Biological Assessment is not
12 complete. That there is still additional
13 mitigation information missing and that they
14 cannot determine completeness at this time.

15 MS. LUCKHARDT: Well last time I spoke
16 with them was not yesterday, but there were three
17 separate times that I had talked to them asking
18 them are these all your final comments? And they
19 gave me handwritten changes to make to the
20 document and I've made all of those changes have
21 been included. So if there is something in
22 addition to that, I am not aware of it at this
23 time.

24 MS. HOLMES: They informed us that there
25 is missing information having to do with the

1 mitigation. That they're looking for some more
2 information and that they would not be making a
3 determination at this time.

4 MS. LUCKHARDT: Okay, all right then --
5 we will check with -- yeah, I will absolutely
6 check with them and find out what's going on.
7 Because we have talked with them three separate
8 times and received three separate hand written
9 changed documents. We've made all the changes
10 that they've asked for, so if there is something
11 in addition, I can't imagine that it's major
12 because we've gone through all the final stuff.
13 And all the comments I'm getting now are very
14 small, language changes. But we'll -- I'll call
15 them again.

16 HEARING OFFICER SHEAN: Okay, for
17 Committee purposes, I guess is there sort of that
18 magic document, whether it be a transmittal letter
19 or some other something that would be issues by a
20 Federal Department that says their Biological
21 Assessment has been deemed to be complete. And
22 isn't that what we're looking for as the trigger,
23 if you will.

24 MS. LUCKHARDT: They actually don't
25 usually -- go ahead.

1 MS. HOLMES: We hadn't -- we had this
2 discussion at one of the earlier status
3 conferences and we were not looking for a formal
4 letter from U.S. Fish and Wildlife Service. We
5 would be happy with a phone call is fine, then we
6 can docket a report of conversation. But the one
7 that, the phone call that we had most recently
8 indicated that the Biological Assessment is still
9 incomplete. So from our perspective, that trigger
10 has not yet occurred.

11 HEARING OFFICER SHEAN: How do we avoid
12 a he said, she said type of deal with respect to
13 this.

14 MS. LUCKHARDT: Well, you know, the
15 bottom line is we have to get U.S. Fish and
16 Wildlife Service to say they're happy. And I was
17 under the impression that they were. And
18 obviously they have since made some other --
19 they've decided they want some other thing
20 changed. And I've been off e-mail now for two
21 days. So I may very well have specific changes
22 sitting on my e-mail that I just am not aware of.

23 MS. HOLMES: We received a message at
24 4:24 today saying that the biological message is
25 not complete and they haven't accepted it.

1 HEARING OFFICER SHEAN: So what should
2 the Committee wait for to be that trigger which
3 tells us that Federal Review has commended with a
4 determination that Biological Assessment is
5 complete and therefore that the schedule for the
6 Staff to complete it's -- Part II of it's FSA
7 essentially has begun.

8 MS. HOLMES: I suggest that it be what
9 we had discussed at previous status conferences,
10 which is that we receive indication from U.S. Fish
11 and Wildlife Service that they have accepted the
12 Biological Assessment. And once that happens, we
13 will file a report of conversation with the
14 Committee and we will consider that that starts
15 the clock for completion of the FSA.

16 HEARING OFFICER SHEAN: Because
17 essentially, if I'm --

18 MR. COHN: If I may here, if I may just
19 add a point here. I certainly appreciate that
20 there could be some minor changes to what we've
21 been through, although we are clearly right at the
22 end of the tunnel with the light shining, but
23 apparently it's not, there's some other I or some
24 other T that has to be dotted or crossed.

25 But what I would ask is that staff

1 shouldn't wait to begin the analysis, their
2 analysis should be beginning so that when the Fish
3 and Wildlife Service does give the indication that
4 Ms. Holmes is waiting for, hopefully that's
5 something that doesn't require an additional
6 30-days after that point, but if it does then
7 Staff could indicate, well there's a major change
8 to what we already started analyzing.

9 But it seems to me we're far enough
10 along that that should at least start.

11 HEARING OFFICER SHEAN: I guess I have a
12 logistical question. If your submitting
13 essentially, if I'm understanding correctly, minor
14 amendments or changes to mitigation to satisfy the
15 Feds, I guess first of all I would conclude that
16 those are important enough that they want them.
17 And is the Staff, are you tracking with the Staff
18 as you make these submittals, so they essentially
19 have the most up to date versions of what your
20 submitting?

21 MS. LUCKHARDT: Yes, yeah, every time we
22 have made updates or changes, we've filed an
23 amended, it used to be a BRA and now it's a BA
24 that initiation has been initiated by Army Core.
25 So they got, in fact, this week when i thought I

1 had Fish and Wildlife's final changes and they
2 were handwritten marked changes on faxed pieces of
3 paper that we changed. We thought that that was
4 all they needed. And that has been filed and
5 served.

6 MS. HOLMES: I don't believe we have the
7 404 application yet, though.

8 MS. LUCKHARDT: Wednesday afternoon or
9 Thursday we filed the 404, so, yeah, it --

10 MS. HOLMES: We didn't have it when I
11 was preparing to come to these hearings.

12 MS. LUCKHARDT: -- yeah, yeah, it's all
13 been very recent. But it's -- every time we get -
14 - if there's a change or somebody wants a change,
15 we make the change. We try and make sure that
16 that's all the changes that they want, so that,
17 you know, we've got a complete document and then
18 we refile it because the document is like an inch
19 thick,

20 PRESIDING MEMBER PERNELL: All right,
21 are they located in the general area?

22 MS. LUCKHARDT: They're in Sacramento.

23 PRESIDING MEMBER PERNELL: They're in
24 Sacramento. Here's what the, I guess here's what
25 the Committee is a little bit concerned about. I

1 mean, we are moving with completed items. We've
2 had two days of hearings, so we're trying to
3 accommodate that. But if it were me, I would
4 submit the changes, camp out on their door and get
5 a response. And all Staff is looking for is a
6 phone call.

7 So it's easy to say, well why doesn't
8 the Staff start writing something, but what we're
9 looking for is a phone call from the necessary
10 agencies so we can get this done. And if Mr. Cohn
11 is correct and there's a light at the end of the
12 tunnel, then let's camp out on their door, get to
13 the end of the tunnel so we can get this done.

14 Because there are other, and I'll just
15 say this, there are other cases that we've got to
16 move forward on, so I think that the Committee and
17 Staff have done a lot with what's been completed.
18 But you can't ask us to go and do something else
19 when we don't have and now I understand is only a
20 phone call. Get on those, whomever it is, submit
21 the changes, stay there and say is this
22 acceptable, can you call CEC and let's get this
23 done.

24 I mean, I'm of the mindset that we need
25 to move forward as quickly as possible because we

1 do have some intervenors that want to talk about
2 biology as well. We just can't keep moving down,
3 putting it off and putting it off because there
4 are other cases and you're going to find yourself
5 on a long delay if you don't be prudent in getting
6 some information.

7 I'm not saying that this is your fault.
8 I'm just saying that sometimes you've got to camp
9 out on the door until you get the answer, or at
10 least, if they have other questions because it
11 appears to me that you thought we had it, you
12 thought you had it and during the two days of
13 these hearings, they come back with another
14 question. So you know, submit something and say I
15 need an answer. And that's just, that's the
16 Committee's comment because we need to move
17 forward on this or there are other cases out
18 there. And we want to allow time, but I don't
19 want to jeopardize Staff by saying start on
20 something until we get something else.

21 We'd like to see or hear from U.S. Fish
22 and Wildlife so we can get the whole biological
23 and I guess we got alternatives done and then
24 we'll be done with the hearings. All right, and
25 that's a phone call I understand from them and we

1 can start that.

2 MS. HOLMES: That's correct. We're
3 prepared to, once we receive a phone call telling
4 us that the biological assessment has been
5 accepted as complete, we will, pursuant to the
6 Committee's order, complete the Biological
7 Resources Portion of the FSA and the Alternatives
8 portion within three weeks.

9 MS. PEASHA: Within how many weeks?

10 MS. HOLMES: Three weeks is what the
11 Committee order has provided for and we're happy
12 to comply with that.

13 PRESIDING MEMBER PERNELL: And I'm sure
14 that if there are some things you can begin to
15 look at you will, but I can't order that because,
16 you know, we need the phone call to start the - to
17 pull the trigger so to speak.

18 MR. COHN: Let me just ask then, what's
19 the mechanism you would prefer for us, once that
20 phone call begins so that we don't lose a lot of
21 time in the transference of information. Should
22 we just at that point do a filing and if Staff and
23 Applicant can agree on some dates that we -- you
24 know file some to let the Committee know that
25 we're now ready to proceed. Or do you want to do

1 another Pre-Hearing Conference on Biology?

2 MS. HOLMES: You're referring to filing
3 of testimony then? I'm sorry.

4 HEARING OFFICER SHEAN: I'm sorry, now I
5 am confused.

6 MR. COHN: My question is whether you
7 want to have schedule a second Pre-Hearing
8 Conference specifically on Biology once we know,
9 you know once the phone call comes in and Staff
10 knows when the FSA come out and therefore knows
11 when they're ready for hearings and when we can
12 file and anyone else file. Or do you want us to
13 do that in writing and just submit dates and other
14 parties submit dates and not require a Pre-Hearing
15 Conference.

16 MS. HOLMES: Your suggesting that once
17 there's a notification that the Biological
18 Assessment has been accepted as complete, that
19 parties would then make filings to the Committee
20 within a certain period of time suggesting a
21 schedule for the remainder of the hearings?

22 MR. COHN: Right, exactly. Or the
23 alternative would be to schedule another
24 Pre-Hearing Conference. And I think we probably
25 could agree, I think on dates that we could then

1 submit to the Committee. Obviously the Committee
2 would have to.

3 MS. PEASHA: I object to that because as
4 an intervenor, for me to get my -- I need, I need
5 that time too and I am -- I should have the time
6 that I -- that is --

7 MR. COHN: If I may, my proposal would
8 be to allow Ms. Peasha and any other party to also
9 recommend what dates they feel are necessary.

10 HEARING OFFICER SHEAN: You know I think
11 it's not appropriate for the Committee to lock
12 itself in at this particular time. Let's find out
13 how things develop. Because I mean, fundamentally
14 if you look at what we've done so far, we had a
15 request for prompt hearings on what were
16 characterized at the January Status Conferences as
17 largely uncontested. Now, if anybody wants to
18 tell me that what we've just gone through for the
19 last two days was uncontested hearings, then I
20 don't understand the meaning of the word
21 uncontested.

22 So I think it's appropriate for the
23 Committee to basically keep it's options open,
24 because fundamentally, our job at this time is to
25 allow for all parties to have notice of the

1 content of the analysis on biology and
2 alternatives. And a meaningful opportunity to be
3 heard. And that's at the core of our
4 responsibility and I think we want to make sure
5 that we have a number of options to do so.

6 MS. PEASHA: Well I believed in the
7 Pre-Conference Hearing is, matter of factly you
8 have to have it. Because here I go sit at some of
9 the Workshops. I think they've resolved them and
10 the day I come in here. I'm getting stuff that's
11 been changed.

12 HEARING OFFICER SHEAN: Okay and I think
13 what we've just said is, we want to retain the
14 option to conduct such a meeting.

15 MS. PEASHA: Great, thank you
16 Commissioner.

17 MR. COHN: Mr. Shean, do you want to
18 schedule briefing on this phase of the hearing at
19 this time.

20 HEARING OFFICER SHEAN: Uh, what we've
21 done in the other proceeding that we're doing, is
22 waiting until we have received the transcript of
23 the proceedings, which generally has been two
24 weeks or a little bit more and maybe we can
25 interrupt our court reporter to see if that's

1 probably the time frame.

2 REPORTER: I don't know.

3 HEARING OFFICER SHEAN: We don't know,
4 okay. Uh, and I -- and there is an area where the
5 parties can begin on their own to formulate
6 whatever they're going to write with regard to the
7 material that has been testified to in the last
8 two days, even in the absence of a specific
9 briefing order.

10 Gather your thoughts, figure out how you
11 want to approach it and then we'll get you the
12 transcripts so you have specific references and
13 you also have the written testimonies.

14 MR. COHN: All right, and then one other
15 request, just to clarify as I understand it, that
16 with the exception of the hearings, that you
17 identified earlier that would be part of the next
18 phase on Biology potentially water related to
19 that. The fire and hazmat safety issues that were
20 discussed and as they relate to worker safety that
21 all other areas would be closed at this time
22 subject to reopening if Ms. Peasha feels there is
23 something in the additional biology testimony that
24 requires that. And the other one I left out was
25 on the Air District, I believe she requested that

1 that the --

2 MS. PEASHA: Air quality, water, yeah.

3 MR. COHN: The Air District, FDOC be
4 subject to questioning on the FDOC as well.

5 MS. HOLMES: My understanding is it was
6 also the Staff's deletion of AQSC5 and --

7 MS. PEASHA: That's correct.

8 MS. HOLMES: -- and with respect to the
9 water issues, it's simply those related to the
10 biological resources, thank you.

11 PRESIDING MEMBER PERNELL: All right,
12 anything else?

13 HEARING OFFICER SHEAN: All right, is
14 there anything else. We just made it by minutes
15 here. Congratulations.

16 PRESIDING MEMBER PERNELL: Let me,
17 before we leave, let me first of all thank all the
18 parties, intervenors, and community folks. And I
19 also want to thank Ms. Hayes for the food and she
20 is right there.

21 (Applause)

22 PRESIDING MEMBER PERNELL: And I would
23 be remiss if I didn't mention our court reporter,
24 so we certainly thank you Valorie for being
25 patient with us through the rain and all of that.

1 This has been a very productive two days and I
2 look forward to the Biology Alternatives and
3 whatever we have left so we can move this case
4 forward.

5 Is there anything else to come before
6 this Committee? Yes Ma'am.

7 MS. MOORE: I just had a question on --
8 I'm intrigued and I'm just curious on this review
9 of biology and the status. We've talked about the
10 Fish and Wildlife Service, I'm just curious of the
11 status of the 404 Permit Application. I know it's
12 been submitted. Is there a public notice out on
13 the streets, has it been deemed complete, or has
14 it just been submitted?

15 MR. KOFORD: Can I respond

16 HEARING OFFICER SHEAN: Why don't you
17 identify yourself please.

18 MR. KOFORD: This is EJ Koford, I'm the
19 senior biologist at CH2MHILL. Diane, we did the
20 wet land delineation starting in June of last
21 year, submitted a variety of verifications, got a
22 verification letter from the Core in January. We
23 had submitted two delineation applications prior
24 to that that they returned comments on. This will
25 be the third one that goes in this week, or fourth

1 one this week.

2 MS. MOORE: Are you talking about permit
3 application?

4 MR. KOFORD: Permit application? The
5 application for (inaudible). And so the reason I
6 give you the history is because we're reasonably
7 confident if this isn't the last modification,
8 it's penultimate modification. So we think we're
9 very close to everything that the Core wants. The
10 Core issues the consultation letter last week and
11 we understand they're going to public notice this
12 week. The notice isn't out yet.

13 MS. MOORE: Okay, so we can looking, you
14 think we can be looking for the public notice
15 within a few weeks.

16 MR. KOFORD: Within the next week, I
17 think, yeah.

18 MS. MOORE: Okay, thank you.

19 PRESIDING MEMBER PERNELL: Let me just
20 ask, are you're on the notice list?

21 HEARING OFFICER SHEAN: Commission
22 mailing list?

23 MS. MOORE: I put myself on the mailing
24 list for this project back at Arcoe East School
25 back in September of last year and I've got two

1 items in the mail.

2 PRESIDING MEMBER PERNELL: You might
3 want to get with Ms. Mendonca, we'll make sure
4 that you are on the mailing list so when those
5 items come up and they're docketed, you'll be
6 informed. All right, is there anything else,
7 anything else anyone has to come before this
8 Committee, seeing none, this Committee is
9 adjourned. Thank you all.

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CERTIFICATE OF REPORTER

I, VALORIE PHILLIPS, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Evidentiary Hearing; that it was thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in outcome of said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 10th day of April, 2003.

Valorie Phillips

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